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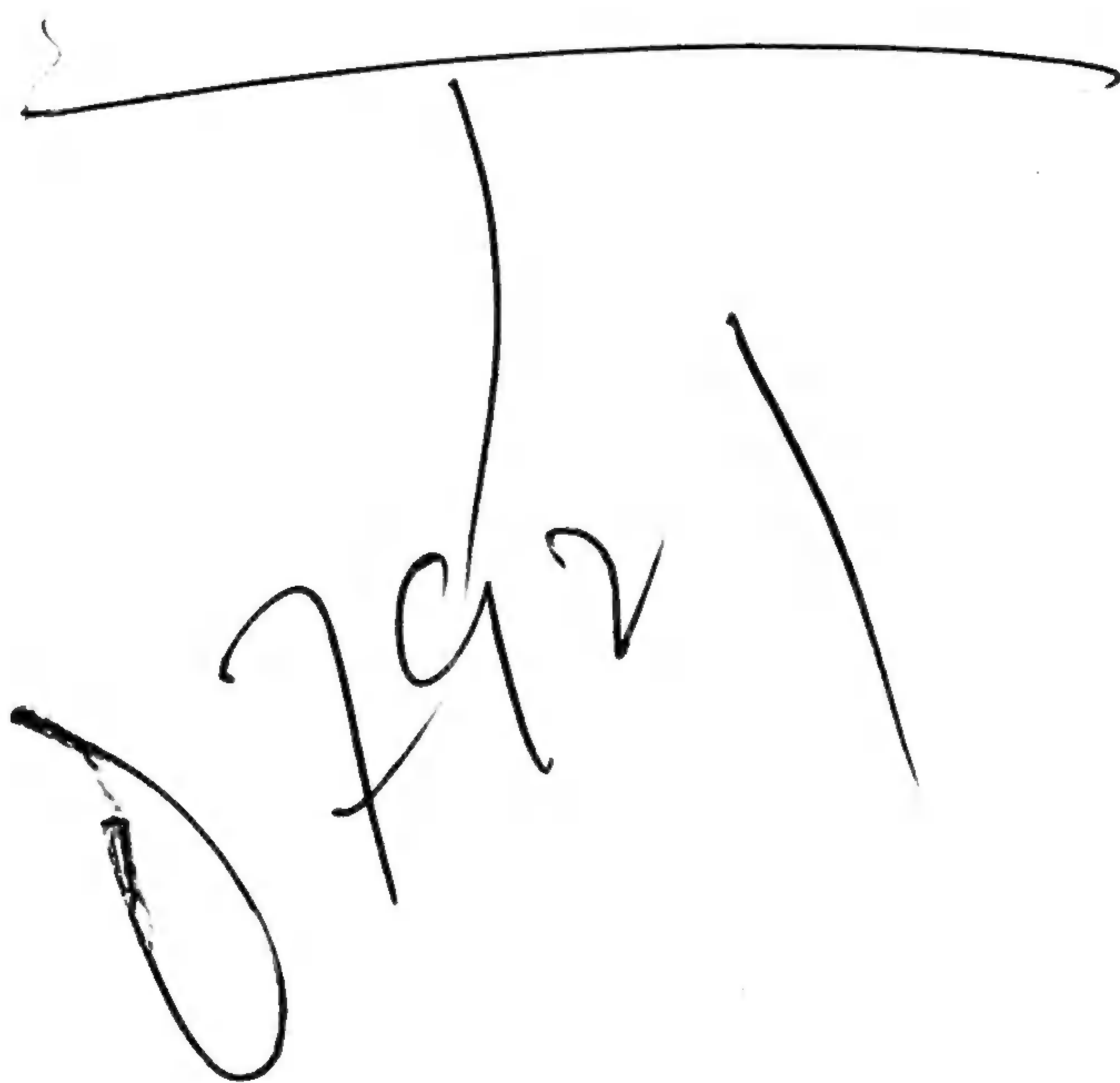
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THE DEVELOPMENT OF LOCAL GOVERNMENT





*by William A. Robson*

THE RELATIONSHIP OF WEALTH TO WELFARE  
THE LAW OF LOCAL GOVERNMENT AUDIT  
JUSTICE AND ADMINISTRATIVE LAW  
CIVILIZATION AND THE GROWTH OF LAW  
THE GOVERNMENT AND MISGOVERNMENT OF LONDON  
THE BRITISH SYSTEM OF GOVERNMENT

*with Rt. Hon. C. R. Attlee*

THE TOWN COUNCILLOR

*Contributor to*

BRITISH GOVERNMENT SINCE 1918

*edited by William A. Robson*

THE BRITISH CIVIL SERVANT  
PUBLIC ENTERPRISE  
SOCIAL SECURITY  
PROBLEMS OF NATIONALIZED INDUSTRY  
GREAT CITIES OF THE WORLD

*Joint Editor with H. J. Laski and W. I. Jennings*

A CENTURY OF MUNICIPAL PROGRESS

8/2/21

# THE DEVELOPMENT OF LOCAL GOVERNMENT

by

WILLIAM A. ROBSON

*Professor of Public Administration  
in the University of London*

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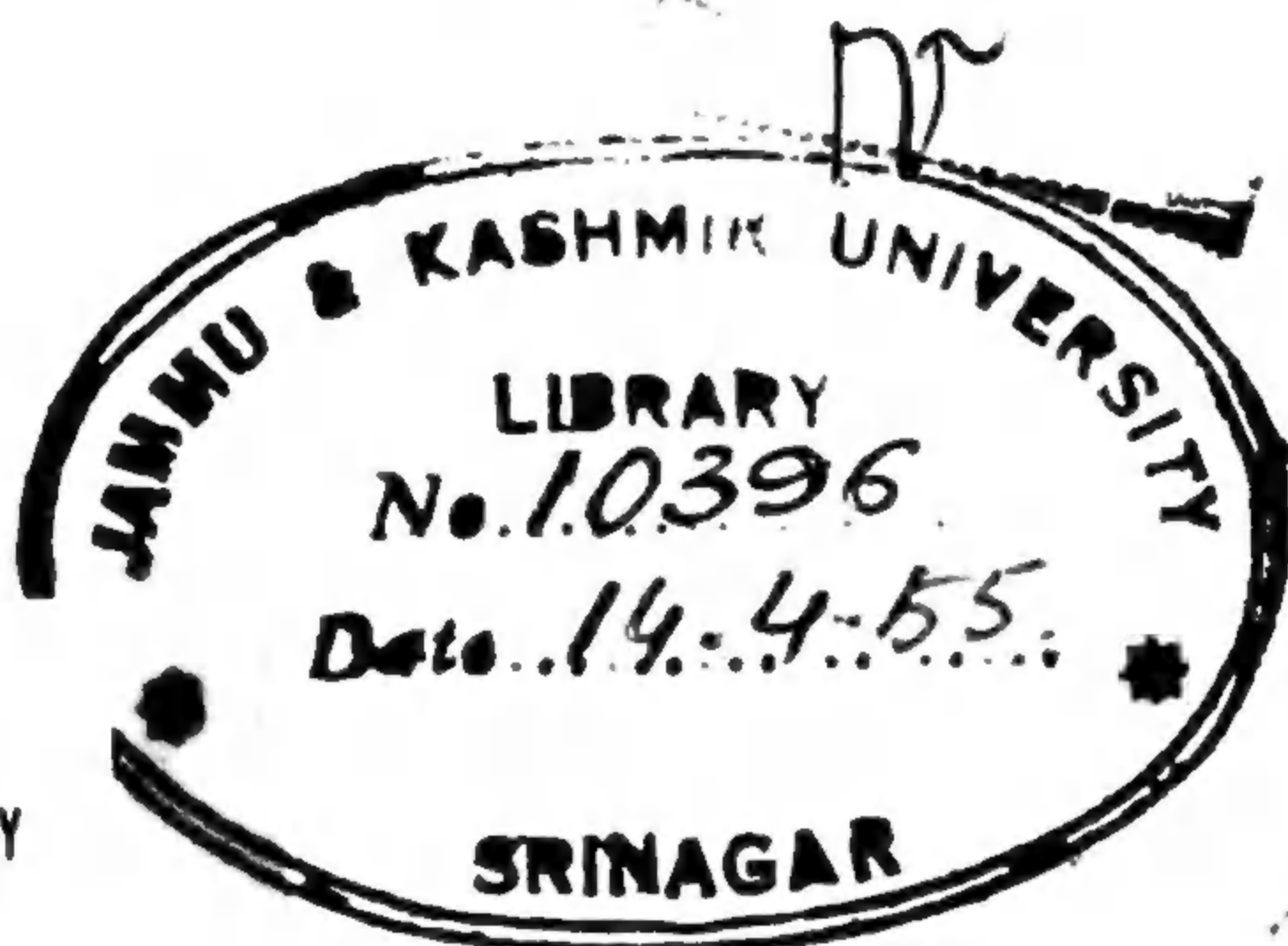
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TO  
MY WIFE

## ABBREVIATIONS

*First Report of the Royal Commission on Local Government = 1 R.C.L.G.*

*Second Report of the Royal Commission on Local Government = 2 R.C.L.G.*



## P R E F A C E

IN recent years there has been a notable increase in the number of books devoted to the study of local government or to particular aspects of it. Most of them are descriptive, analytical or historical. There is still a remarkable dearth of works in which the main problems of the subject are discussed in a comprehensive way.

There is, however, a very great need for a comprehensive discussion of the chief problems of the day in this field. Those problems relate principally to the organization of areas and authorities; the relations of the central departments to local authorities; the powers of local authorities; and municipal finance. The failure on the part of successive Governments, Parliament and the public to recognize the nature or even the existence of these problems, far less to attempt to solve them, has produced a situation of the utmost gravity to the local government system.

In 1931, when this book was first published, I was able to refer in the preface to "the immense and growing importance of local government in the life of the nation." To-day, it is unhappily necessary to record its rapidly declining significance in the polity of our country. How and why has this deplorable result occurred? The short answer is that local authorities are being denuded of their functions in consequence of the transfer of services to the central government or to *ad hoc* bodies appointed by Ministers. Accompanying this curtailment of functions is an immense increase of central control over the remaining duties of local authorities. It is no exaggeration to say that local government is facing a crisis of the first magnitude.

Part I of the book, dealing with the structure of the local government system, is by far the most lengthy and elaborate, as befits the importance and interest of the subject. In this part



I drew extensively on the huge mass of facts which was made available by a series of official enquiries such as the Onslow Commission on Local Government, the Royal Commission on Land Drainage, the Hadow Committee on Education, the Departmental Committee on Public Libraries, and the Royal Commission on London Government. This valuable material was in every case obtained for the purpose of investigating some particular aspect or department of local government. No attempt had hitherto been made to utilize it for the purpose of surveying the system as a whole. My object was to show the weaknesses of the municipal structure with a view to remedying its defects.

In preparing the present edition for the press I have revised the text of Part I in numerous places where it was essential to do so; but I have not attempted (nor would it have been possible from the available data) to bring it up to date in every detail. Despite certain alterations which have occurred, the picture there portrayed remains broadly correct, subject to the changes which are mentioned in the Prologue. It seemed preferable, in dealing with the central theme of areas and authorities, to survey separately the principal changes which have taken place during recent years or are now impending. By so doing the reader will obtain a better appreciation of their significance and of the emerging trends than if they were dispersed in a series of amendments to the text of Part I. I have, therefore, added a lengthy prologue which brings together the developments which have occurred since 1930 or are now in process of taking place.

The next part deals with the functions of local authorities, looked at from the most general point of view. The reader will find here a number of considerations of the widest significance. The need to raise our system of local government out of the pedestrian rut into which it has fallen is the main theme of this chapter. Freedom and responsibility, as alternatives to centralization and restraint, are discussed mainly from the point of view of the extent to which they permit or encourage the

municipality to promote activities of a cultural character. Next comes a dissertation on the Local Government Service, which may be regarded as the cornerstone of the whole edifice. This has been extensively revised so as to incorporate the many changes of fact and of policy which have occurred. Here one is glad to record substantial progress in bringing about improvements which in the earlier editions were proposed as desirable, but the realization of which seemed remote.

The book has hitherto contained a part dealing with public health administration, in which I described the welter of authorities responsible for various branches of public health and demonstrated the overlapping, waste, inefficiency and extravagance that resulted from these arrangements. I further argued the need for an integration and simplification of health administration, both at the centre and in the localities; and put forward a number of proposals designed to achieve this end. In view of the radical transformation effected by the National Health Service Act, this chapter has served its purpose, and is no longer relevant. It is therefore omitted.

The final part (which has been revised) deals with a vital aspect of central control over local administration. I trust no one will be deterred by its somewhat uninviting title from becoming acquainted with this quite remarkable and almost unique feature of our constitutional régime. There is a real struggle for power underlying words and phrases of apparent innocence. All the organs of government are concerned in this question of audit—the local authorities, the central government, the courts of law. As regards the local authorities, the control of the audit goes to the very roots of their autonomy, and is in this way connected with the rest of the book. There is, I believe, a fundamental unity running through the work which links together all these diverse matters.

The conclusions and proposals I have put forward have been formulated without regard to the aims and susceptibilities of any political party. They are based, not on propaganda or on preconceived opinions, but on the most exhaustive and

thoroughgoing analysis of facts and tendencies which it is within my power to make.

That is not to say that my views ~~are~~ colourless, or even that I believe them to be so. I confess first and foremost to ■ profound belief in the value of local government, both from the point of view of the results it achieves in terms of service to the community and from the standpoint of its educative effect on the nation. It is ■ form of civic self-expression *par excellence*. I admit further to having been moved throughout by a desire to see our system of local government not merely preserved and strengthened but expanded in a progressive direction and brought into harmony with the developing economic, social, political and scientific tendencies of the day. In local government, as elsewhere, progress is ■ condition of stability.

WILLIAM A. ROBSON

LONDON SCHOOL OF ECONOMICS  
AND POLITICAL SCIENCE

*July, 1947*

*Note to the Third Edition*

In preparing the present edition for the press, I have made extensive revisions and additions to the prologue, and to Parts II and III of the text, in order to bring them up to date with recent developments. I have not considered it either practicable or necessary to undertake any further revision of Part I.

WILLIAM A. ROBSON

LONDON SCHOOL OF ECONOMICS  
AND POLITICAL SCIENCE

*April, 1953*



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# PROLOGUE

## LOCAL GOVERNMENT IN CRISIS

IN 1931 I wrote in the Preface to this book: "Our municipal system is being subjected to a serious and perhaps dangerous strain by reason of the fact that burdens are being placed on the structure greater than those which it was designed to bear. An adjustment between structure and function is therefore urgently called for." An adjustment of this kind could be made in one of two ways. Either the structure could be improved so as to make it capable of carrying the functions more effectively, or, alternatively, the load could be reduced to correspond with the strength of the structure. Everyone who cares for local government and values its essential contribution to the British democratic tradition would desire to see the former course adopted. Unfortunately, however, the tide has been flowing strongly in the opposite direction.

The most conspicuous tendency in recent years has been the removal of functions from local government control. In 1930 the licensing of passenger road services was taken away by the Road Traffic Act from local authorities and given to the area traffic commissioners (now renamed the licensing authorities for public service vehicles) set up in twelve large regions. The licensing authorities are appointed by the Minister of Transport and are subject to his general directions. The chairman of each body is a full-time officer who holds office during Her Majesty's pleasure. The other two members are drawn from two panels, one nominated by the county councils and the other by the county boroughs, non-county boroughs and urban districts in the region concerned. A connection with local government is maintained through the personnel of these panels, but the regulation of motorbuses and coaches has ceased to be a local government service. A person appointed from one of the panels may continue to serve after he has ceased to be a member of the local authority

which appointed him; and he is in any event in no way responsible to the local council for the decisions of the licensing authority.<sup>1</sup>

## THE LOSS OF MUNICIPAL FUNCTIONS

### (i) *Trunk Roads*

In 1936, 3,500 miles of trunk road, forming part of the national system of routes for through traffic, were transferred from the local highway authorities to the Minister of Transport, who was henceforth made entirely responsible for their maintenance, repair and improvement. This change did not affect roads in county boroughs or the county of London. In 1946 a further long list of main highways, comprising an additional 3,700 miles of trunk routes, were transferred to the central government. Furthermore, the Minister is now authorised to declare any road to be a trunk road by order and thus bring it within the system of national routes under his control. Moreover, the main highways in the county boroughs and the county of London are no longer excluded from the national routes under the Minister.<sup>2</sup> By 1952 8,176 miles of main highways had been transferred.

This legislation provides for a division of duties between the Minister of Transport and the former highway authorities. The Minister may delegate functions in respect of the national routes to county borough or urban district councils, and he does so on a liberal scale; but this does not affect the basic fact that responsibility for the principal roads of the country has passed from local authorities to the central government.

### (ii) *Civil Airfields*

Until recently, most of the civil airfields have been owned by municipalities, with the exception of one or two international airports, such as those at Heathrow, Northolt or Croydon, which were provided and operated by the Air Ministry. Local authorities were encouraged to provide aerodromes for civil

<sup>1</sup> For a discussion of this and other Administrative Tribunals see W. A. Robson: *Justice and Administrative Law* (3rd Ed.) Ch. 3; R. M. Cushman: *The Independent Regulatory Commissions*, p. 543 et seq.

<sup>2</sup> Trunk Roads Acts, 1936 and 1946.



aviation and were given expert advice by the Air Ministry in regard to sites and equipment. On the outbreak of war in September, 1939, there were forty-two licensed aerodromes owned by local authorities, and these included all the largest and best ones in the country, such as Ringway at Manchester and Speke at Liverpool. The White Paper on British Air Services issued in December, 1945, announced that transport airfields required for scheduled air services would be acquired and managed by the Ministry of Civil Aviation. The explanation given for this policy was that "present and projected types of aircraft involve heavy capital and maintenance expenditure on long concrete runways and ancillary facilities. The revenue from landing fees would, in most cases, be insufficient to meet outgoings and State aid would be necessary. Moreover, many privately-owned and municipal airfields which have been requisitioned during the war have been developed at the expense of public funds, and acquisition of these airfields by the State would be an economical and simpler solution of the problems of de-requisitioning. The State has, for many years, undertaken the provision of meteorological, radio and control services and, in the changed circumstances, it is a natural development of this policy that the State should own the airfields. It is not proposed that the State should acquire non-transport airfields such as those used by clubs or for training and private flying."<sup>1</sup>

The reasons were thus financial, and no consideration was apparently given to the possibility of a grant-in-aid. It is obvious that the public ownership and operation of scheduled air services involves a substantial measure of direction by the central government over airfield development and location, since the pattern of air services is closely interwoven with airfield facilities. It can also be assumed that the provision of air traffic control, radio and meteorological services must be provided by the Ministry of Transport and Civil Aviation. But neither of these considerations necessarily leads to the conclusion that municipal airfields should be transferred to the central government. The local

<sup>1</sup> Cmd. 6712/1945. Para. 19.

authorities had spent a relatively small capital sum on the provision of airfields—only some two million pounds—and a much higher level of expenditure both on capital and revenue account was required to cater for modern air services. But if the need for higher expenditure were sufficient reason for the removal of functions from local authorities, almost every service would forthwith be taken from them.

Under the policy described above nine municipal aerodromes have already been transferred to the Ministry of Transport and Civil Aviation. These include those serving important centres of population such as Birmingham, Bristol, Leeds and Bradford, Liverpool, Cardiff, and Southampton. There are only 21 aerodromes now in municipal ownership,<sup>1</sup> compared with 42 in 1939.

### (iii) *Hospitals*

The loss of the hospital service was a far more serious blow to local government than either roads or airfields. The abolition of the boards of guardians in 1929 and the transfer of their functions and property to the county and county borough councils had made local authorities responsible for a large majority of the hospitals of the country. The total accommodation provided by them was 355,000 beds in 1,545 hospitals, out of a total of 504,000 beds in 2,688 hospitals taken over by the Ministry of Health under the National Health Service Act. The municipal hospital service was, moreover, an expanding service both as regards the scope of the treatment that it offered and the sections of the community for which it catered. It was no longer associated with the Poor Law. It was meeting the needs of an ever-widening circle of citizens and substantial improvements were being effected in regard to the medical service, buildings, equipment, management, and staffing arrangements. Hospital administration was, indeed, one of the services in which large developments might with some confidence have been predicted in the municipal sphere until recently. Then suddenly, local authorities were deprived of

<sup>1</sup> Not all of them are directly operated by local authorities.

the whole mass of their hospitals at one stroke. It was a shattering blow to local government. The London County Council, to take the outstanding instance, was the largest hospital authority in the world. It is no longer a hospital authority at all. The only contact which local authorities continue to have with this supremely important part of the National Health Service is that the Regional Hospital Boards must include among their members "persons appointed after consultation with the local health authorities in the area."<sup>1</sup> These persons form only one out of four categories of persons who are to be included on the boards. They need not be councillors, aldermen or officers of local authorities. They do not serve in a representative capacity and are appointed by the Minister. The Regional Hospital Boards are to appoint Hospital Management Committees for the hospitals in their region and here again the members are to include persons appointed after consultation with the appropriate local health authorities. The local government influence over the hospital service has thus been so attenuated and diluted that it is reduced to almost negligible proportions.

#### (iv) *Public Assistance*

Other changes of great significance have taken place in the social services. The Unemployment Act, 1934, transferred to the Assistance Board responsibility for the able-bodied unemployed who had exhausted their rights to unemployment insurance benefit. In 1940 the supplementation of old age and widows pensions, which had previously fallen on the local authorities, was vested in the Assistance Board. The National Assistance Act, 1948, which is a much more comprehensive measure, superseded and repealed the earlier legislation, including the poor law. It renamed the Assistance Board the National Assistance Board, and gave it the duty of relieving destitution and of assisting person in need, which local authorities had possessed since the days of the Elizabethan poor law.

Local authorities no longer exercise any powers relating to

<sup>1</sup> National Health Service Act. Third Schedule. Part 1.



the payment of money to persons in need, and their functions consist of providing services in kind for certain categories of persons. Thus, they must provide accommodation for those who, by reason of age, infirmity or other circumstances, require care and attention which they could not otherwise obtain. They must also provide accommodation for those rendered temporarily homeless by an emergency or other circumstances. Persons who use the accommodation are normally required to pay standard charges, which may be reduced in cases of need. In addition, the local authorities must maintain certain welfare services for physically handicapped persons in need of them. Most of the institutional forms of assistance available to those in need are now given under the National Health Service or as part of the ordinary public health or education services. The National Assistance Board discharges its functions through its own local offices. The responsibilities left to local authorities under the new system are thus much narrower in scope and far less important in magnitude than those they fulfilled under either the old poor law or the later system of public assistance.

#### (v) *Valuation and Assessment for Rating*

The system of local rates evolved historically from the Elizabeth poor law, which introduced a poor rate in each parish to finance the relief of destitution. In course of time the rates became the sole instrument of local taxation by means of which revenue was provided for all the services of local authorities. The rating system was gradually reformed and extended, notably in 1925, when the Rating and Valuation Act enlarged the rating areas, and again in 1929 when public assistance was transferred from the boards of guardians to the county and county borough councils. Despite many changes, the whole business of valuation, assessment and collection of rates was administered entirely by local authorities for nearly 350 years.

In 1948, however, an important change occurred which had nothing to do with the transfer of public assistance functions from local authorities to a national organ. The Local Govern-

ment Act, 1948, introduced a new grant known as the Exchequer Equalization grant to take the place of the former block grant; and in the course of making this change, Parliament transferred the task of valuing property for rating purposes from local authorities to the Inland Revenue. The principle underlying the Equalization grant is that the Exchequer becomes, in effect, a ratepayer of a local authority to the extent that the latter has a deficiency in rateable value per head compared with the average for the whole country. The Exchequer pays rates on that amount at the appropriate rate in the £ for that area; and each local authority which qualifies for the grant receives from national funds a proportion of the expenditure which would otherwise fall on the rates.<sup>1</sup>

The Equalization grant gave the Exchequer a direct interest in the valuation of property for rating, since entitlement to grant depends on whether a local authority is or is not below the national average for the whole country as regards the rateable value per head of its weighted population. There had for long been considerable differences in the standard of valuation applied to property in different areas; and sometimes these differences were due to deliberate attempts to conceal the full extent of the differences in rateable value between different areas: as, for example, when a wealthy local authority preferred to levy a high rate on under-valued property rather than a lower rate on a more accurate valuation. This was the Treasury's justification for removing the process of valuation entirely from the sphere of local government.

If we are to interpret aright the movement towards centralization whose progress we are here recording, we must remember that reasons can always be adduced for almost any policy; and some of the reasons for centralization will seem to be good reasons if we consider each step in isolation, especially if we do not contemplate the total effect on the system of local government of a series of losses of power, independence and responsibility.

<sup>1</sup> See D. N. Chester: *Central and Local Government* for a good description of the new grant.

## THE LOSS OF PUBLIC UTILITIES

(i) *Passenger Road Transport Services*

In the field of public utilities some spectacular changes have occurred and others are threatened. The case of transport may be considered first.

Before the Second World War there were 95 local authorities operating motor-bus and motor-coach services, in addition to 67 tramway and 39 trolley-bus undertakings, most of which were in the hands of borough councils. At the end of 1950-51 local authorities owned 14,596 motor-buses, 2,509 trolley-buses and 3,803 trams.

Under the Transport Act, 1947, which nationalized inland transport, all passenger road services, whether municipal or commercial, were liable to be taken away from their owners and formed into new undertakings under entirely different management. The British Transport Commission was authorized to prepare and submit to the Minister of Transport schemes for passenger road services covering specified areas. A scheme might establish or specify the body or bodies which were to provide services within the area, and it could designate the bodies to acquire and administer the undertaking. The British Transport Commission might name itself as the operating body, either alone or in conjunction with other organs.

The British Transport Commission was required by the Act of 1947 to review ■■ soon ■■ possible the passenger road transport services operating in Great Britain with a view to deciding for which areas schemes were to be prepared. Little progress ~~was~~ made in carrying out these provisions of the Act and in July, 1951, Mr. Barnes, then Minister of Transport, complained of the number of local authorities which had resisted area schemes. He expressed his disappointment at the slow progress being made with area road passenger schemes which, he said, could only materialize through local consent and local option.<sup>1</sup> *Ce méchant animal, quand on l'attaque, il se défend !*

The Transport Act, 1953, repeals these and other provisions

<sup>1</sup> *Municipal Year Book*, 1953, p. 438.



of the 1947 Act affecting road transport; and the threat to municipal undertakings is thereby removed for the time being. But the prospect that local authorities will remain in undisturbed possession of their local transport services is a slender one; for the issue between the parties is that of nationalization versus profit-making enterprise, and the fate of municipal trading services is a mere incident of that controversy. Thus, the Conservative Government now in office is fundamentally interested in restoring road haulage and passenger services to private ownership; it happens almost by accident that in the process of repealing the provisions of the Transport Act, 1947, which authorise the Transport Commission to expropriate road haulage or passenger services in private ownership, the threat to municipally owned and operated passenger services is also removed. But no political party has advocated or defended municipal enterprise in connection with transport services or any other utility functions. Hence, local authority interests are a mere pawn in the struggle over nationalization. This applies not only to road passenger services but also to ports, which were dealt with in a somewhat similar manner by the Transport Act, 1947, and the denationalizing Act of 1953.

### (ii) *Electricity Supply*

Until 1947 the generation of electricity had been organized for the previous 20 years on a national basis by the joint efforts of the Electricity Commission and the Central Electricity Board. The generating stations were connected with a nation-wide grid, into which electricity is poured and from which supplies were drawn by authorized undertakers for distribution in detail. The distribution side of electricity supply was unaffected by the extensive progress introduced on the generating side by the Electricity Supply Act, 1926; and it had for long been recognized that sweeping reforms were needed.

About two-thirds of the electricity supply industry was owned and operated by local authorities, the remainder being in the hands of commercial companies. Municipal corporations owned

nearly 60 per cent. of the total capital sunk in the industry before 1947; they supplied 67·8 per cent. of the consumers and disposed of 63 per cent. of the total units supplied excluding bulk supplies. Local authorities had expended capital sums amounting to £330 millions, compared with £230 millions by the companies.

The performance of local authorities in this field compared on the whole favourably with that of the companies. The average price per unit charged by them for lighting, heating and cooking purposes was substantially lower; and they had also embarked to a much larger extent on schemes for assisted wiring and for the simple hire of apparatus at very low rentals.<sup>1</sup>

Proper consideration of local conditions is essential if the electricity supply industry is to be developed on economical and efficient lines and suitable provision made for meeting individual needs. The Municipal Electrical Association justly claimed that "a type of organization which under efficient technical and financial direction places the consumer first, and is under local control, so that appropriate decisions may be promptly taken and implemented, will provide the cheapest and most satisfactory service." They therefore contended that the needs of the community would best be served and the supply of electricity made available to the greatest number of consumers at the lowest possible cost, if a vigorous extension and development of local authority ownership were brought about.<sup>2</sup> The Association regarded with apprehension the prospect of electricity supply being transferred from municipal and company undertakings either to *ad hoc* regional bodies or to a national organ. Municipal ownership, they declared, is not incompatible with operation by joint boards covering wide areas; but the I.M.E.A. made no proposals for the organization of local authorities on a larger scale.

The Electricity Act, 1947, shows how well-founded were the fears of the Association. Under this measure the generation of electricity passed to a central body called the British Electricity

<sup>1</sup> For details see the memorandum on "The Contribution of Local Authorities to the Development of the Electricity Supply Industry," issued by the Incorporated Municipal Electrical Association, pp. 5-6.

<sup>2</sup> *Ib.*, p. 7.



Authority and distribution was handed over to 14 regional organs called Area Electricity Boards. The generating stations, wiring systems and all other assets and liabilities of authorized undertakers, whether local authorities or commercial companies, were transferred to these *ad hoc* bodies. Thus, electricity supply has been wholly removed from the sphere of local government. The only link which remains is that each Area Electricity Board, the members of which are appointed by the Minister of Fuel and Power, must be composed of persons who have had experience of and shown capacity in local government, industrial, commercial or financial matters, applied science, administration, or the organization of workers.

In each area ■ Consultative Committee is set up, consisting of between 20 and 30 persons. Not less than half of them are to be appointed by the Minister from a panel nominated from amongst members of local authorities in the area by such associations as the Minister considers to represent the municipal councils concerned. The Consultative Committees, as their name implies, are merely advisory bodies. They can consider any matter touching the distribution of electricity in the area, including tariffs and the improvement of services or facilities ; they can hear complaints by consumers or discuss questions referred to them by the Area Board. They have a right to be informed of the Area Board's general plans and arrangements; and they in turn must report their conclusions to the Area Board. If the Board takes no action to implement their recommendations, or to remedy a defect or to meet criticism made by a Consultative Committee, the latter, after consulting the Board, can make representations to the Central Electricity Authority.

### (iii) *Gas Undertakings*

A similar situation existed in the gas supply industry, except that the share of the industry in the hands of local authorities was only about 37 per cent. The Gas Act, 1948, deprived 274 councils of their municipal gas undertakings and transferred them to 12 public corporations known as area gas boards. The gas boards



cover very large regions and are subject to a limited degree of co-ordination and supervision by the Gas Council. No compensation was paid to local authorities for the acquisition of their gas or electricity undertakings. They were merely relieved of responsibility for the interest and sinking fund charges in respect of any outstanding loans on their undertakings. The only other sums payable to them were £2½ millions to make up for the losses caused by severance of the gas undertakings, and £5 millions for the severance of the electricity undertakings.

Prior to this legislation being passed great apprehension was felt by local authorities concerning the future of the gas industry and also for that matter of public utilities generally. At a conference on local government held by the Association of Municipal Corporations at Eastbourne on 25th and 26th September, 1946, a paper was presented for discussion at the first session of the conference by Councillor C. E. P. Stott of Manchester on "The Gas Industry in Relation to Local Government."<sup>1</sup> Councillor Stott shared the view of the Labour Government that gas should be publicly owned, but he desired to see the two-thirds share of the industry then in private hands placed under the ownership and operation of local authorities or combinations of local authorities. "I agree," he said, "that there must be regional organization and co-ordination on a national basis, but this is a minor issue compared with the bigger one of local or national ownership."

Councillor Stott pointed out that if nationalization meant that the industry was to be centralized or placed under the control of nominated persons forming a committee or board, then the gas undertakings would become insensitive to public requirements and remote from the healthy influence of public opinion. The share of the industry run by municipalities, he declared, had been operated competently by them and they were equally competent to administer the undertakings then owned by companies.

<sup>1</sup> See Report of Proceedings issued by the Association of Municipal Corporations, p. 30.

*(iv) Democratic Control of Public Utilities*

Councillor Stott placed the whole subject against a background of broad political principle. "Our conception of democracy," he declared, "is the right of the individual freely to select the person whom he or she desired to administer or control local or national services. The test should be the ability to attach responsibility to an elected person, and I view with considerable trepidation the growth of such organization as the London Passenger Transport Board, not because of defects in their services, but because of the remoteness of the control over them."<sup>1</sup> The idea that Parliament can exercise control is, he continued, illusory. Parliament is not designed to administer services or to control effectively their administration and it cannot exercise that degree of continuous supervision over public utilities that is required if they are to be subject to the popular will.

The speaker also dismissed the idea that advisory committees are adequate means of bridging the gap between municipal authorities and independent public corporations. It is possible, Councillor Stott warned his colleagues, that we shall be offered advisory panels and told that our function is to assist administrators to maintain contact with the body of consumers. "We shall have place without responsibility and fool the public into believing that they have some measure of association with the industry. It is a seductive proposition—a shadow for the substance; an instrument denuded of power; a complete reversal of present practice, in which we receive advice from our technical staff and determine policy under their considerable influence. The possibility of the future is that we shall occupy the role of endeavouring to influence the policy of our masters." For these reasons, Councillor Stott declared that any step attempting to destroy or limit the authority of local government in this field would be a retrograde step which should be resisted.

The position of local authorities under the nationalization

<sup>1</sup> *Ib.*, p. 30. The London Passenger Transport Board was integrated in the nationalized system of transport embodied in the Transport Act, 1947, and is now known as the London Passenger Transport Executive.

schemes applied to gas and electricity is exactly what Councillor Stott warned his colleagues it would become: they have place without responsibility.

### SOCIALIST BELIEF IN MUNICIPAL TRADING

A movement for the widest possible extension of municipal trading services has been an outstanding feature of the Socialist movement in England since the end of the nineteenth century. The early Fabians were known as "gas and water socialists" because they advocated the ownership by local authorities of gas, water, electricity, street transport and other public utilities as an essential part of their programme. Bernard Shaw's book, "The Commonsense of Municipal Trading," indicates the importance given to the matter by a leading thinker. Sidney and Beatrice Webb stated that there were "obvious reasons why many industries and services have to be municipalized rather than nationalized."<sup>1</sup> In their view the case for local administration of such functions rests primarily on the consciousness, among the inhabitants of a given area, of a sense of neighbourhood and of common needs differing from those of other localities; and on the facility with which members of a local community can take counsel together for the purpose of determining and developing their environment. The residents in a given area, the Webbs pointed out, must necessarily use the same drainage system, the same water supply, the same artificial sources of light and heat, the same educational and medical institutions, the same libraries, the same parks and open spaces, and the same organization of local transport. This tie of neighbourhood "influences in a thousand unforeseen ways the nature of the administration. In the characteristic municipal industries and services producer and consumer are very near together, and automatically aware of each other."<sup>2</sup>

For these reasons the Webbs declared that there was practically no limit to the number and range of the industries and

<sup>1</sup> *A Constitution for the Socialist Commonwealth of Great Britain*, p. 213.

<sup>2</sup> *Ib.*



services that might with advantage be undertaken by local authorities.<sup>1</sup> A few great industries and services, such as railways and canals, afforestation, the supply of coal and oil, the generation of electricity and probably banking and insurance, would be undertaken by the central government. At the other end of the scale would be the provision of commodities for household consumption by the Co-operative Movement. In between would come an immense field of industrial enterprise which local authorities could undertake. "It is, of course, easy to contemplate," they wrote, "the universal provision by our local authorities of water, gas and (so far as its distribution is concerned) electricity; of such local transport as tramways, omnibuses, ferries and river services. . . ."<sup>2</sup> It may well prove to be the case, they asserted, that in a Socialist Commonwealth as much as one-half of the entire range of industries and services would fall within the sphere of local government.<sup>3</sup>

These confident predictions conflict strangely with the course of events under the direction of Labour Ministers, many of whom acquired their Socialist beliefs from the teaching of the Webbs and other leading Fabians. In place of the great increase of industrial and distributive undertakings and social services which, it was prophesied, would expand the sphere of local government, we observe the removal from local authorities both of public utilities and essential social services.

### NEW TOWNS

Local government is also suffering from being by-passed in respect of new functions. An outstanding example is the building of new towns, which now forms one of the most imaginative and promising features of the reconstruction programme. The Reith Committee recommended that local authorities should be permitted to initiate the creation of new towns if they desired to do so. The Committee had in mind particularly the case where a large town, in order to carry out redevelopment on sound lines,

<sup>1</sup> *Ib.*, p. 236.

<sup>2</sup> *Ib.*, p. 237.

<sup>3</sup> *Ib.*, p. 238.

needs to displace part of its population and industry and this can best be effected by building a new town or effecting a major extension to an existing small town.<sup>1</sup> These recommendations were not accepted by the Government and the New Towns Act, 1946, makes no provision for development corporations to be sponsored by local authorities. In consequence the new towns are being built without the participation of local authorities.

### CONTROL OVER LOCATION OF INDUSTRY

Control over the location of industry, which is the key to town and country planning, was accepted as a government task for the first time in the White Paper on Employment Policy.<sup>2</sup> Elaborate machinery in which many Departments are concerned has been set up both in Whitehall and in the regions to guide industrialists in the choice of sites for new factories. Local authorities have no place on either the Regional Boards for Industry or on the Regional Distribution of Industry Panels.

The Regional Boards for Industry advise Ministers and their Departments on industrial conditions within their regions and upon the steps which may be necessary to bring regional resources into fuller use. The Boards advise local industry of Government policy concerning industry, and keep Whitehall informed of the views held in the region on industrial questions. They keep in close touch with the work of Departments in their areas so far as it touches on industrial matters, and present the needs of industry to local authorities. The scope of their work is very wide, and among the range of topics dealt with by the Boards are advice on town and country planning, land development charges, water supplies for industry, the provision of day nurseries for the children of employed mothers, housing for key workers, and the staggering of holidays to avoid overcrowding at seaside resorts. All these questions concern the work or policies of local authorities, yet the Boards contain no members representing

<sup>1</sup> Interim Report of the New Towns Committee. Cmd. 6759/1946. Para. 9 (6).

<sup>2</sup> Cmd. 6527/1944. See also the Distribution of Industry Acts, 1945 and 1950.

local authorities. They are composed of representatives of employers and trade unions, and the senior regional officials of Government Departments.

The Distribution of Industry Panels are executive bodies. They deal with industrial building projects for which licences are required, with the allocation of surplus government factories and with other questions relating to industrial location. They consist solely of senior representatives in each region of the central Departments concerned.

The exclusion of local planning authorities from these important bodies is remarkable in view of the fact that they are responsible for zoning their areas for industrial and other uses, for giving consents under the interim development procedure, and for many other aspects of the planning process.

#### SOME LOCAL GOVERNMENT GAINS

The trend has not been entirely in one direction, and local authorities have gained a few services to offset these staggering losses of power and responsibility. They are authorized by the Civic Restaurants Act, 1947, to provide and administer restaurants and to supply meals to the public, thus continuing the cheap meals service inaugurated by British Restaurants during the Second World War.

One would have expected local authorities to have shown great interest and enthusiasm in developing this service, remembering the unfavourable contrast presented in the past between the excellent municipal cafés and flourishing civic restaurants in many continental cities and the total lack of any comparable municipal enterprise in this country where local authorities had no legal power. Actually, however, we find less and less use being made of the Civic Restaurants Act. Thus, in July 1945, as many as 1,578 civic restaurants were in operation. By August, 1948, the number had diminished to 937. In August, 1950, it was 474, and in April, 1952, there were only 257. The number of meals served had fallen by almost as great a proportion between the years 1945 and 1952, which rules out any possibility of the reduction in the



number of restaurants being due to the replacement of several small establishments by larger ones. Nor can we explain the dwindling of this service by the statutory provision requiring civic restaurants to pay their way, for there is no reason whatever why municipal restaurants and cafés should not be self-supporting.

The town and country planning powers of county councils and county borough councils were enlarged by the Town and Country Planning Act, 1947, and the Town Development Act, 1952. A further extension of their interests and jurisdiction was brought about by the National Parks and Access to the Countryside Act, 1949, in regard to the management of national parks, nature reserves, and the provision of rural amenities generally.

The major local authorities were given much wider powers and duties of looking after children deprived of a normal home life by the Children Act, 1948. A new emphasis was placed on what had been a neglected and badly organized service by the Curtis Report and its legislative sequel. County and county borough councils now have a positive duty to receive and care for orphans, deserted children, or those whose parents are prevented by disease or some other cause from giving them a proper home and upbringing.

Lastly we may note a provision of the Local Government Act, 1948, enabling local authorities to provide entertainment and cultural services and thereby to help people to make better use of their leisure time. The author has reason to believe that the plea for such services contained in Part II of this book had some influence in bringing about this beneficent measure.

The authorized expenditure may not exceed the receipts and the product of a sixpenny rate; but this limitation has not precluded local authorities from undertaking a wide range of recreational services of many different kinds. There are now nearly a hundred local repertory theatre companies in Britain, nearly all aided by grants from local authorities. The repertory company at Coventry, for example, which relied formerly on the Arts Council, now receives an annual grant of £3,500 from the Coventry Corporation, and with this additional help the company is saving

up money to build a permanent theatre. An outstanding example of high achievement made possible through support of the civic authorities is the Old Vic Company established at Bristol, which has gained a national reputation. The essentials for the progress made by this company, in the view of the Arts Council, are the attractive theatre bought by the generosity of the Bristol citizens and the financial support of the town council, supplemented by occasional assistance from the Arts Council.<sup>1</sup>

The drama is only one item out of many supported by local authorities. Choral societies, concerts, music festivals, folk-dancing, puppet shows, mock parliaments, musical comedies, opera, pantomime, regattas, pageants, ballet, fairs and circuses, film shows, firework displays, sports meetings, tennis and bowls competitions, are among the multifarious forms of recreation or entertainment which local authorities now provide. Life in Britain is richer, gayer, and more colourful because of these activities.

When due allowance has been made for these and other gains,<sup>2</sup> it is scarcely open to doubt that local government has on balance emerged from the post-war phase of economic reconstruction greatly weakened and diminished in stature. Local authorities have lost nearly all their trading services, and they are scarcely playing even second fiddle in the administration of the health service or public assistance.

### THE TRANSFER OF POWERS FROM COUNTY DISTRICTS TO COUNTY COUNCILS

Within the framework of local government significant changes have taken place. Power and responsibility have shifted from the county district councils to the county councils. The Education Act, 1944, makes county councils and county boroughs local education authorities for all purposes and eliminates the boroughs and urban districts which were formerly responsible in many areas for elementary education only. Under the new system the

<sup>1</sup> See an article in *The Times* newspaper 17 November, 1952, entitled "The Theatres—Civic Support for the Drama." See also an article by Lord Esher in *The Observer*, 16 November, 1952.

<sup>2</sup> See, for example, the Housing Act, 1949.



county council appoints divisional executives to exercise specified functions relating to primary and secondary education. Provision is also made for a borough or urban district whose population in 1939 was not less than 60,000 and which had in that year at least 7,000 children attending public elementary schools, to be an excepted district and to have its own scheme of divisional administration. The district council then has the right to exercise functions delegated by the county council.<sup>1</sup> There are 44 excepted districts.

The Police Act, 1946, abolished 47 police forces maintained by non-county boroughs and transferred the powers formerly possessed by those boroughs to the county police authorities.<sup>2</sup> Formerly, fire brigades were provided by county district councils until they were taken over by the central government during the war. The Fire Services Act, 1947, returned the fire brigades to local authorities, but placed them in the hands of the county boroughs and county councils. The Town and Country Planning Act, 1947, transferred planning powers from county district councils to county councils. Under the National Health Service Act, 1946, county boroughs and county councils are made local health authorities, and in consequence county district councils have lost their powers in regard to maternity and child welfare, ambulances, midwives, notification of births, vaccination and immunization, and various other matters.<sup>3</sup>

Thus, county district councils have since 1944 ceased to be local authorities for education, police, fire services, town and country planning, and health services. Housing is now the only service of major importance in which they play an independent role. In regard to all these other functions they have either been superseded entirely by the county councils or relegated to a subordinate position as the recipient of delegated powers working under close supervision and control by the county council.<sup>4</sup>

<sup>1</sup> Education Act, 1944. First Schedule. Part III.

<sup>2</sup> Police Act, 1946, Section I.

<sup>3</sup> National Health Service Act, 1946, Part III and Tenth Schedule.

<sup>4</sup> See Emmeline W. Cohen: *Autonomy and Delegation in County Government*. Institute of Public Administration.



Some counties regard district councils to which such powers have been granted as mere agents with almost no discretion. Even in its more favourable and liberal-minded manifestations, delegation is a poor substitute for independence and responsibility. Its extensive use indicates a fundamental departure from the British tradition of local government. It has so far reduced pride, interest and enthusiasm for local government in the boroughs, urban and rural districts.

### A DIAGNOSIS

The reasons for these drastic changes are clear. For more than thirty years the organization of local government has been growing obsolete and is now hopelessly out of date. Far larger units of administration than those afforded by counties or county boroughs are needed for such services as town and country planning, technical education, hospitals, sewage disposal, electricity and gas supply. Moreover, improved methods of transport have greatly increased the area of daily movement and enabled large numbers of people to work in one area and live in another. The great cities draw their workpeople of all classes from housing estates, dormitory towns and rural areas outside their boundaries. These people have to be provided with many services by the city in which they work, but most of them pay rates only to the council in whose area they live.

The reader will find in Part I of this book a critical analysis of the local government structure and a detailed account of its shortcomings. That was written in 1930, when all the existing defects were already plainly visible. In it I emphasized the need for larger areas<sup>1</sup> and pointed out the danger of centralization if larger and more appropriate units of local administration were not created.<sup>2</sup> In the years which have elapsed since then, the need for larger areas has become much more urgent and imperative; and the danger of centralization has materialized into an accomplished fact.

<sup>1</sup> See p. 124.

<sup>2</sup> See p. 129.

## INCREASED CENTRAL CONTROL

The centralizing tendency which is undermining local government assumes several forms. One form is the straightforward transfer of functions from local authorities to Government Departments or similar organs. This has occurred in regard to civil airfields, trunk roads, hospitals, public assistance, and the valuation of property for rating. A second form consists of the transfer of services and undertakings to *ad hoc* bodies subject to varying degrees of central control. This has happened in the case of the licensing of passenger road services, gas and electricity supply, and other public utility services. Yet another form consists of increased central control over local authorities. There are many manifestations of this.

The introduction of the Block Grant in 1929 was accompanied by a provision which for the first time gave the Minister of Health power to reduce the grants by any amount he thought fit, if he considered that the expenditure of a council had been excessive, having regard to its financial resources and other relevant circumstances.<sup>1</sup> The same enactment gave Whitehall vast new powers over the whole field of public health and highway administration, for the Minister was authorized to reduce the grant by whatever amount he thought fit if he were satisfied that a local authority had "failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions relating to public health services," regard being had to the standard maintained in other areas, or if the Minister of Transport certified that a council had failed to maintain their roads, or any part of them, in a satisfactory condition. These powers have been continued and enlarged in the legislation<sup>2</sup> introducing the Exchequer Equalisation Grant, which replaces the Block Grant. They are exercised by the Minister of Housing and Local Government. They now apply to all the functions of local authorities and are no longer limited to public health services and the maintenance of roads. The Local Government Act, 1948, thus

<sup>1</sup> Local Government Act, 1929, Section 104.

<sup>2</sup> Local Government Act, 1948, Section 6.

threatens to place all the activities of local authorities entitled to receive equalisation grants under the detailed scrutiny and meticulous control of the central government.<sup>1</sup> Not a word of protest was uttered by local councils or their associations at the acquisition by the central government of these vast new powers.

The erosion of local independence and freedom is not a new phenomenon. In the so-called financial crisis of 1931 the central government exercised a dominating influence of an unprecedented kind over local authorities. In the course of the panic measures which were taken by the Government to reduce public expenditure at the very time when it should have been increased, the then Chancellor of the Exchequer instructed the associations of local authorities that in order to "lighten the heavy burden at present borne by the community" they were to review the whole field of local expenditure in order to effect reductions at the earliest possible moment. At the same time the Minister of Health, using language without precedent in the history of his Department, announced in a circular that as regards salary reductions His Majesty's Government did not think it practicable to impose any hard-and-fast rule on local authorities. "Impose" was a new word for the central government to employ towards the ancient counties and proud cities of Britain. Yet it was one to which they were soon to become accustomed, for the National Economy Act, 1931, enabled the Government to make Orders in Council for the purpose of effecting economies in regard to education, police, roads, etc., and also "for imposing duties on local authorities in connection with the administration of any such service." Neither resentment nor resistance appear to have been aroused by this successful attempt by the central government to dominate local authorities.

Yet the significance of what had occurred was unmistakable. "It is indisputable," I wrote in 1933,<sup>2</sup> that these events "betoken a subordination of local autonomy to the dictates of the central power which, if pursued, will be the virtual end of local govern-

<sup>1</sup> See D.N. Chester: *Central and Local Government*, p. 334.

<sup>2</sup> "The Central Domination of Local Government," by W. A. Robson. *Political Quarterly* January-March, 1933. Vol. IV., No. 1.



ment. The complete abdication by the local authorities of the right to think and act for themselves; their transformation into mere receptacles for Government policy; their immediate acceptance of all the ill-considered panic measures, involving a complete reversal of existing tendencies and the abrogation of carefully-prepared schemes, put forward by the Government under the pretext of the so-called crisis; their servile acquiescence without ■ protest in the unlimited encroachment on the rights of local authorities introduced by the National Economy Act, 1931; their willingness to destroy and to see destroyed the fruits of municipal progress in terms of education, housing, and the other social services without so much as an enquiry into the necessity for so doing—all this, I suggest, reveals a new and degraded spirit in local government which has not previously appeared in this country.”

It would be quite wrong to assume that the tendency towards centralization has occurred only in times of momentary emergency or war. The long term trends point in the same direction.

The Education Act, 1944, for example, declares that it is the duty of the Minister of Education *inter alia* “to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area.” Here again we confront a new relationship between central government and local authorities. Hitherto that relation has been largely a partnership, with the exception of the former Poor Law, which never recovered from the absolute subordination of local authorities to the central power laid down in the Poor Law Act, 1834.<sup>1</sup> In the field of education the idea of ■ partnership has been specially prevalent. Throughout the whole range of functions which Parliament has assigned to local government the principle has prevailed that local authorities derive their powers from the law and are free to exercise them within the limits laid down by legislation or regulations made under statu-

<sup>1</sup> It is significant that the Education Act, 1944, uses the same language, “control and direction” to describe the relationship between the central department and the local authorities as the Poor Law.

tory authority, subject to such limited degree of ministerial direction or approval as may be specified and to the supervisory jurisdiction of the Courts. The Education Act, 1944, breaks new ground by conferring on the Minister of Education power to prevent the unreasonable exercise of their functions by education authorities. If, says the Act,<sup>1</sup> the Minister is satisfied, either on complaint by any person or otherwise, that any local education authority or the managers or governors of any county or voluntary school have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed upon them, he may give them such directions as to the exercise of the power or the performance of the duty as he thinks expedient. This over-riding provision applies even where the law expressly states that the duty or power is contingent upon the opinion of the local education authority or school managers or governors. The Minister need not wait for a complaint in order to act. He can intervene on his own initiative at any time.

Thus the local education authority is no longer regarded as competent to judge what is a reasonable use of their discretionary powers. Parliament confers powers on local authorities and the Courts are available to see that they are not exceeded or abused. But henceforth the Minister is deemed to be the final repository of reason and his decision cannot be challenged either in the Courts or directly in Parliament. His opinion, moreover, is placed above the views of the local electors. This far-reaching and absolute control is bound to permeate and influence the relationship between the Ministry of Education and local education authorities in regard to every matter, great or small, which concerns the latter's work.

We shall no doubt be told by apologists for the type of central domination which is now emerging that this provision will be seldom, if ever, used. The late Montagu Harris excused on precisely this ground the sweeping powers of the Minister of Health to reduce the Block Grant which have been mentioned

<sup>1</sup> Section 68.



above. "Even so far as this provision does reserve to the Minister a power of financial control," he wrote, "it would seem probable that, as in all such cases, such power will be seldom exercised. It may be held over the local authorities as a threat, and, for the very reason that it is so much wider than the previous power of withholding specific percentage grants, it is perhaps even less likely to be put into force."<sup>1</sup> Therefore, he argued, we must not assume that the Minister will frequently depart from the usual procedure of persuasion.

To regard the matter from this angle is completely misleading. In England it is seldom necessary for administrative authorities to invoke their legal powers when dealing with one another. Matters are discussed in a gentlemanly and urbane manner, with the stronger party often being the first to suggest a compromise in the gentlest manner. But everyone knows where the whip hand lies—and acts accordingly. There are, Sir Ivor Jennings rightly says, consequences of this close control which are psychological in character and hence outside the ambit of any statutory enactment.<sup>2</sup> The present Minister of Education still uses the language of partnership in dealing with local education authorities, and this will no doubt continue as a matter of form. "But that is not the language of the Act," the Mayor of Lincoln complains "with its reference to control and direction. It is the language of principal and agent."<sup>3</sup>

#### LOCAL AUTHORITIES AS AGENTS OF WHITEHALL

A closely integrated partnership between central and local authorities is necessary for high achievement in municipal administration. It is, however, essential to avoid reducing local authorities to the position of mere agents of the central government if they are to continue to make their indispensable contribution to the democratic way of life which expresses the British political tradition.

<sup>1</sup> G. Montagu Harris: *Municipal Self-Government in Britain*, pp. 208-9.

<sup>2</sup> W. Ivor Jennings: *Principles of Local Government Law*, 2nd Ed., p. 245.

<sup>3</sup> Alderman J. W. F. Hill: See Report of Proceedings at Conference on Local Government of Association of Municipal Corporations, Sept. 25 and 26, 1946, p. 37.



During the Second World War, officers of local authorities, and sometimes the local authorities themselves, were employed to carry out functions on behalf of, and under the instructions of, central departments. Local Fuel Overseers, Food Executive Officers and Chief Civil Defence Officers are examples of this phenomenon. These emergency expedients were a departure from one of the strongest characteristics of English local government; namely, its avoidance of the "dual capacity" system found in many continental countries, whereby mayors and other chief officers are required to carry out functions on behalf of the central government in addition to exercising local government powers. These arrangements tend to produce a divided allegiance among the officers concerned. They also lower the status of the elected council by reducing its control over local administration carried out by its own staff.

### EXCHEQUER GRANTS

The growth of central control here depicted must include some mention of the increasing part played by grants-in-aid in local government finance. The broad outlines of the position are as follows. In 1938-9 local authorities in England and Wales raised about £191 millions from rates and received £140 millions in grants. By 1940-41 grants had almost doubled, while rates had increased to only £230 millions.<sup>1</sup> Part of this increase in Exchequer subventions was in respect of Civil Defence and other emergency services which have now disappeared.

In 1950-51, £304 millions was received from rates and a similar amount from grants of all kinds. Thus, local authorities received as large a sum from the central government as they were able to raise from their only independent source of local taxation—the rates. Local authorities are to-day spending on revenue account over £1,000 millions a year or almost a twelfth of the national income. Less than a third comes from the rates. A similar

<sup>1</sup> In 1941-42 £198 millions was raised in rates and £278 millions came from grants. In 1942-3 the figures were £200 millions from rates and £248 millions from grants. Report of the Ministry of Health for 1946, Cmd. 7119/1947, Appendix A.

proportion is provided from national funds. The remainder comes from fees, rents, recoupments of rate fund services, and income received from trading undertakings.<sup>1</sup>

This very large increase both in the absolute amount of grants-in-aid and in the proportion which it bears to rate revenue must inevitably be accompanied by an increase of central control. The diminished independence of local authorities is a reflection of, and is in turn reflected by, the diminished role of local sources of revenue. Any student of government could foretell that as the Treasury came to provide more and more money for the local councils, the voices of Whitehall would speak more often and with greater insistence.

Local authorities are themselves largely responsible for this state of affairs. They have for many years, through their associations, insistently demanded more money from the central government regardless of the consequences to their own dignity and freedom. In season and out of season, in times of prosperity and of depression, they have relentlessly pursued this one idea of extracting more money from the Exchequer. They have ignored, with rare exceptions, the possibility of tapping new sources of local taxation; of finding methods of assisting necessitous authorities by spreading the charge for certain services over wider local government areas; of reforming the methods of assessment and valuation; of pooling the proceeds of a nation-wide rate for distribution among local authorities in accordance with an agreed formula of need.

#### THE ATTITUDE OF LOCAL AUTHORITIES TO MUNICIPAL REFORM

On the wider question of local government reform, local authorities are also partly to blame for the present position. They have taken far too narrow a view of the situation and been far too occupied with the sectional interests of particular classes of local authority. The larger threat to local government as a whole has been almost overlooked.

During 1942 and 1943 each of the associations issued a report

<sup>1</sup> See *Report of the Minister of Health for 1950*. Cmd 8342, p. 224.

dealing with the problems of areas and organization.<sup>1</sup> There was general agreement among them that the present organization of local government has a few defects and that the war-time system of Regional Commissioners must be abolished. Beyond this there was little or no agreement. The associations put forward widely differing proposals as to the kind of structure which is desirable, the proper distribution of powers and functions between authorities, the methods of creating urban and rural areas, the provision to be made for large-scale planning and administration, the number of tiers of authorities, the relations between the tiers and the optimum sizes of authorities.

To examine in detail the various proposals put forward by the associations in 1942-3 would at this stage serve no useful purpose. I shall therefore not attempt to do so here. The essential facts which emerged from these reports was that the associations spoke with discordant voices; that each class of local authority was playing for its own hand and that there was no effort to get together in order to formulate proposals which would benefit local government as a whole. Each association of local authorities identified its sectional interests with the welfare of the nation. (We shall discuss later the joint proposals made in 1953 by four of the associations of local authorities.)<sup>2</sup>

The universal opposition shown by local authorities to the continuance of the Regional Commissioners after the end of the war was entirely justified on political grounds. The Commissioners represented a break with the British constitutional tradition which could be tolerated only as a temporary expedient in a period of extreme national danger. They were moulded somewhat on the model of a French prefect and would probably,

<sup>1</sup> Final Report of the Executive Committee of the County Councils Association; Report of the Special Committee of the Association of Municipal Corporations adopted in July, 1942; Report of the Urban District Councils Association on the Re-organization of Local Government, dated 17th July, 1942; memorandum of the Executive Committee of the Rural District Councils Association, May, 1942. Mention must also be made of the Interim Report of the N.A.L.G.O. Reconstruction Committee on the reform of Local Government Structure and the Report of the Labour Party on the Future of Local Government, though these two documents fall into a different category.

<sup>2</sup> Post, page 72.



in due course, have developed along the lines of the prefectures found in many continental countries. They were politically irresponsible; for no one could imagine that the Minister of Home Security who appointed them was answerable for their acts as though they were civil servants.

But while the nature of the institution was objectionable, the need for it indicated a serious lacuna which local authorities should not have overlooked. "The Regional Commissioners," it has been truly said, "were established to fill an aching void in our system of government caused by the absence of a coherent and systematic form of regional organization."<sup>1</sup>

Hence, before indulging in an orgy of denunciation and abuse of the Commissioners, councillors and aldermen would have done well to reflect on the underlying need which led to their appointment and which would once again arise when they were abolished. But in their anxiety to insist on the right of local authorities to have direct access to central departments, most of the associations, and numerous councillors in their individual capacities, attacked not only the Regional Commissioners but also any form of regional administration.

The County Councils Association went so far as to condemn any form of regionalism which would be implied by the grant of supervisory powers over a wide area or by the extension of the existing local government areas. The most they would concede was the formation of joint authorities. The Association of Municipal Corporations took the view that all-purpose authorities established in reconstituted areas throughout the country could generally fulfil the requirements of those services which demand areas larger than any which at present exist.

The N.A.L.G.O. Report, containing the views of an independent committee of the Association, also favoured the idea of setting up all-purpose authorities throughout the country, but advocated in addition the creation of provincial councils to exercise planning and co-ordinating functions for

<sup>1</sup> *The Regional Commissioners*, by Regionaliter. *Political Quarterly*, Vol. XII, No. 1 (April-June, 1941).

the services requiring large-scale treatment. These provincial councils would not possess executive powers; and the committee expressly declared that it did not envisage any organ of local government at the regional level, since this would be entirely unsuited to local government. Nevertheless, the acceptance of provincial councils for planning and co-ordination was an advance on the purely negative attitude of the associations of local authorities.

### THE LABOUR PARTY'S REPORT

The Labour Party boldly embraced the principle of regionalism. Their Report proposed the creation of a series of regional or major authorities whose areas would be sufficiently large to have adequate resources and to provide large-scale services but not so large as to lose any sense of common interest among the inhabitants of the region. These regional authorities would have extensive planning and administrative powers. Below the region would probably be "an adaptation of the existing county areas, with amalgamations and absorptions of existing authorities, where necessary, to achieve a satisfactory unit." Each region would thus contain a number of area authorities to administer purely local services and others delegated to them by the major authority.

It is worth noticing, in the light of subsequent events, the special emphasis laid by the Labour Party Report on the value of local government as "an essential part of the framework of our democracy."<sup>1</sup> The Committee declared that "the democratic tradition in local government is very powerful and nowhere more so than in the ranks of the Labour Movement. It is," they continued, "not enough merely to affirm this principle." Efforts must be made to translate Labour's ideas and ideals into "a constructive system of government that will conform to the necessities of historical development."<sup>2</sup> Suitable machinery should be set up by the central government to survey the country

<sup>1</sup> *The Future of Local Government*, published by the Labour Party.

<sup>2</sup> *Ib.*, pp. 7-8.

as a whole in order to determine the areas suitable for a regional or major authority, adequate for the efficient performance of large-scale services.

### THE WHITE PAPER ON LOCAL GOVERNMENT

The Coalition Government, influenced by the lack of agreement among the associations, ran away from the whole problem. The White Paper on "Local Government in England and Wales during the Period of Reconstruction," issued at the beginning of 1945, is mainly an escapist document.<sup>1</sup>

It opens with a statement made by the then Minister of Health in reply to a question in the House of Commons on 3rd August, 1944, in which he said that the reports from the associations had shown there to be "no general desire to disrupt the existing structure of local government or to abandon in favour of some form of regional government the main features of the county and county borough system; and the Government do not consider that any case has been made out for so drastic a change." On the other hand the Government were satisfied that there was need and scope for improvements within the general framework of the county and county borough system.<sup>2</sup>

The reasons which had led the Coalition Government to the view that the time is not opportune for a general recasting of the local government structure were twofold. First, the lack of any "general desire in local government circles for a disruption of the present system, or any consensus of opinion as to what should replace it; and secondly, that the making of a change of this magnitude, which would by common consent have to be preceded by a full-dress inquiry, would be a process occupying some years and would seriously delay the establishment of the new or extended housing, educational, health and other services which form part of the Government's programme."<sup>3</sup>

The White Paper acknowledged the contention that certain services need to be planned or administered over wider areas:

<sup>1</sup> Cmd. 6579/1945. H.M.S.O.

<sup>2</sup> *Ib.*, p. 2.

<sup>3</sup> *Ib.*, p. 4.



and that the reconstruction programme would place an impossible burden on local government finance. But it did not regard either of these arguments as sufficient reason for introducing fundamental reforms. As regards the former, it examines in turn various alternative ways in which wider areas could be obtained for certain services. These include nationalization, regionalization and the creation of joint authorities.<sup>1</sup>

So far as nationalization is concerned, the Government declared themselves to be opposed to "any general policy of centralizing services hitherto regarded as essentially local." They were, however, not prepared to rule out altogether the possibility of transferring certain functions if on the merits of the case this course could be shown to be desirable.<sup>2</sup> Regionalism in the form of directly elected councils to administer certain services was dismissed in eight lines for no apparent reason other than the opposition of the associations. The third alternative of joint boards or committees formed of local authorities co-operating for particular purposes was therefore regarded as offering the best remedy in present circumstances. Hence, the White Paper declared the Government's intention of relying on the existing structure based on the county and county borough, with appropriate machinery, where necessary, for combined action.<sup>3</sup>

The White Paper is in many ways a highly misleading document. In the first place, it presents the case for reform as though it were a proposal to "disrupt" an inherently stable and sound structure. In point of fact this is directly contrary to the truth. The present system is rapidly disintegrating through the loss of functions and through being by-passed in regard to new activities. This process is occurring because the structure is ramshackle and obsolete. The only chance of preserving and strengthening local government is by means of a fundamental improvement in the structure. It is in this light that proposals for reform should be regarded.

<sup>1</sup> *Ib.*, p. 4.

<sup>2</sup> *Ib.*, p. 5.

<sup>3</sup> *Ib.*, p. 6.

In the second place, the disavowal of any "general policy" of centralizing local services evades the issue. It does not matter in the least whether hospitals, civil airfields, public utilities, main roads and public assistance services are transferred to central departments or to public boards or corporations as a matter of "general policy" or merely as a piece-meal expedient adopted in each case. The result is exactly the same. What matters is the loss of power, interest and responsibility, and the decline of democratic local government, which these transfers must cause.

Thirdly, the excessive deference shown to the associations of local authorities and their implied identification with the public interest resulted in the whole picture being out of perspective. The White Paper refers to the opposition to change of "local government circles" without either describing their nature or analysing the validity of their objections. It simply accepts the opposition of these unnamed "circles" as a conclusive argument in favour of a policy of inaction.

The expression "local government circles" is, presumably, only another name for the associations of local authorities. Even a cursory glance at these bodies shows that they represent particular categories of local authorities and are therefore unlikely or unable to take a comprehensive and disinterested view of the position. They have hitherto played the part of defence organs for the sectional interests of their members.

It was utterly wrong for the White Paper to identify the national interest in a vigorous and healthy local government system with the partial views of such bodies. Local government exists for the benefit of the nation as a whole and of the local communities into which it is divided. The task of the central government and of Parliament should be to determine the general framework within which local authorities can administer services in an effective and democratic manner. To consider the councillors, the councils and their associations instead of the citizens and their communities is a fundamental mistake. Moreover, the central government must lead in this matter, not merely follow and obey the views of local authorities. That

was the attitude which produced the Municipal Corporations Act, 1835, the Local Government Acts of 1888 and 1894, and all the other great improvements of the past century. There would have been no major reforms in the 19th century if the governments of the day had taken the wishes of "local government circles" as their guide. It is odd that while the central government is curtailing unduly the freedom and independence of local authorities in their day to day administration, in this matter of organization and structure, which is essentially a question of national policy, the central government is subservient and reluctant to interfere.

#### THE LOCAL GOVERNMENT BOUNDARY COMMISSION

The one constructive proposal contained in the White Paper was the creation of a Local Government Boundary Commission. The suggestion originated in the reports of the National Association of Local Government Officers and of the Labour Party. Both these bodies envisaged a Commission with very wide powers to review existing local government areas and authorities. The White Paper took a narrower view of the functions proper to such a body. Its powers were to comprise those hitherto exercised by county councils and the Minister of Health in regard to the review of county districts prescribed by the Local Government Act, 1933; the creation and extensions of county boroughs; the demotion of small county boroughs to non-county borough status; and the union of contiguous county boroughs and some of the smaller administrative counties.<sup>1</sup>

This narrower conception was embodied in the Local Government (Boundary Commission) Act, 1945. The statute provided for the establishment of a Boundary Commission charged with the duty of reviewing the circumstances of the areas into which England and Wales (exclusive of the administrative County of London) are divided for the purposes of local government, and exercising, where it appeared to the Commission expedient so to do, the powers of altering these areas conferred by the Act.<sup>2</sup>

<sup>1</sup> *Ib.*, p. 12.

<sup>2</sup> Section 1 (1).



The Commission consisted of a chairman, deputy chairman, and three other members, who were paid salaries and allowances determined by the Treasury. The Commission appointed its own staff subject to Treasury approval and consultation with the Minister of Health.

The Commission was given statutory power to alter or define the boundaries of a county, county borough or county district. It could unite a county with another county, or combine one county borough with another county borough. It could amalgamate non-county boroughs. It could marry county districts of any kind or include them in a county borough. It could promote a borough (enlarged, if necessary, by the accession of adjoining territory) to county borough status. It could demote a county borough to non-county borough rank. It could carve up a county into two or more counties, or eliminate it by dividing its territory between or among two or more other counties. It could dispose of urban or rural districts in a similar fashion.<sup>1</sup>

Neither Parliament nor the Minister attempted to lay down any general policy for the Commission or to indicate the broad outlines of the structure which it was to promote. There were, however, four negative injunctions: (1) The exclusion of the Administrative County of London from the purview of the Commission. (2) A prohibition on the creation of county boroughs in Middlesex. (3) The fixing of a population level of 60,000 as a maximum limit for the reduction in rank of county boroughs to non-county borough status. (4) The fixing of a population level of 100,000 as a maximum for the elimination of county councils.

The idea of creating a Commission to deal with questions of local government areas and authorities was an excellent one. The method was, indeed, preferable to any which has hitherto been used for this task. It was less susceptible to political influences and far more expert than the Parliamentary Private Bill procedure, which had been necessary since 1926 for opposed applications for the extension or creation of county boroughs. The Commission enjoyed far greater independence and public confidence than the

<sup>1</sup> Section 2.

Ministry of Health, whose devious methods gave rise to the dissatisfaction voiced by local authorities before the Onslow Commission on Local Government. It could bring to the settlement of county district problems a wider view than any county council is likely to possess. The ultimate control of Parliament was assured by requiring that orders made by the Commission relating to a county or a county borough were provisional only and had no effect until confirmed by Parliament.<sup>1</sup> The Minister of Health's responsibility for local government was preserved by empowering him, after consulting the associations of local authorities concerned, to make regulations prescribing general principles by which the Commission were to be guided in the exercise of their functions. These regulations had to be affirmed by positive resolution of each House of Parliament.<sup>2</sup>

For the first time this century a compact body of able, experienced, disinterested, and independent commissioners was charged with the duty of reviewing the circumstances of the areas into which the county is divided for the purpose of local government and given extensive powers of improving those areas. They could take the initiative instead of merely arbitrating on claims put forward by one authority and opposed by another. They could undertake first-hand investigation in the field, instead of having to be content with highly-coloured evidence presented at a public enquiry by counsel for the contending parties.

Despite these advantages as an instrument of reform, the Commission was severely handicapped by the lack of two essential powers. One was that it had no jurisdiction over functions. The other was that it was unable to create new types of authorities exercising powers over regional areas. It could not, for example, combine one or more county boroughs with neighbouring county councils, or leave them intact and establish a regional authority over them for specified purposes. Nor could it create a Greater Manchester County Council with a two-tier system of authorities similar to that obtaining in London.

<sup>1</sup> Section 3 (9).

<sup>2</sup> Section 1 (3).

Another important limit to the scope of the Commission was the exclusion of Scotland from its jurisdiction.

### THE COMMISSION'S PROPOSALS

The main contribution of the Local Government Boundary Commission is contained in its report for the year 1947. This report is the first sign from any official body which indicates either the parlous state into which local government has fallen or the kind of change which is necessary to effect even a partial recovery. The Report is a brief and business-like document. It makes no attempt to trace the historical development of the present condition, nor does it attribute blame or criticism for what has occurred among those who are responsible. It wastes no words on eloquence. Its essential purpose is to describe shortly the causes of weakness in local government and to prescribe remedies.

The weaknesses, the Commissioners point out, are due to the disparity in size and resources of individual counties, county boroughs, and county districts; the failure of the local government system to adapt itself to the changing pattern of modern industrial England, particularly in the case of the great conurbations in the Black Country, Manchester, Merseyside, Tyneside, the West Riding, Tees-side, and elsewhere; the increased central control which has deprived local authorities of a large measure of their independence; the haphazard allocation of functions among local authorities on a piecemeal basis; and, above all, the conflict between county councils and county borough councils which has arisen from the constant pressure on the part of the big towns to extend their boundaries and the desire of non-county boroughs to acquire county borough status. This conflict between town and county has been gnawing at the vitals of local government with increasing intensity for half a century.

The Commissioners rightly observe that it is "a matter of first importance to the future of local government that this very natural antagonism should cease, and that these frequent battles should not take place." They therefore sought a remedy which



“removes the causes of the battle rather than one which disables either combatant.”<sup>1</sup> This, indeed, is the chief aim of the Report.

At present there are 83 county boroughs and 61 administrative counties in England and Wales. Within the administrative counties is a second tier of county district councils consisting of 309 non-county boroughs, 572 urban districts and 475 rural districts, making a total of 1,356. In the rural districts there are about 7,000 parish councils, which form a third tier, but this may be ignored for the purpose of distinguishing between the two main types of one-tier and two-tier local government. Broadly speaking, two-thirds of the population live in the county areas and one-third in the county boroughs.

The Commission recognises that in terms of certain types and sizes, one-tier government is preferable and that elsewhere the two-tier system should prevail. It is in their application of this principle that the Commission departs largely from the present arrangements.

They recommended that henceforth the whole of England and Wales should be divided into counties, each with its own county council. Most of the present counties would continue unchanged as major authorities, though some of the smallest counties would be merged with others and the largest ones divided. There would, in addition, be a number of new counties consisting of large cities and towns, sometimes associated with the surrounding urban, rural or semi-rural environs. These new counties would in some instances have one-tier administration (and would therefore resemble the present county boroughs), while in others there would be a two-tier form of local government. The general aim would be to provide a population of between 200,000 and 1,000,000 for each new two-tier county, and a population of 200,000 to 500,000 for every new single-tier county. (London was not within the jurisdiction of the Commission, so this would not apply in the metropolis.)

County boroughs would not disappear, but they would no longer be entirely separate from the administrative county for all local

<sup>1</sup> Page 7.

government purposes. What the Commission calls "new county boroughs" would form a new category of lower-tier authorities which would have a superior position to county district councils, but would form part of the county for certain purposes. They would (unlike county districts) be autonomous local authorities for education, health and medical services, the care of the aged and the disabled, and perhaps the care of children deprived of a normal home life. They would be authorised to claim responsibility for executing the repair, maintenance and construction of classified highways though the finance of these highways would be a county council function. They would have a separate commission of the peace, a coroner and a sheriff, and discharge the duties relating to the administration of justice. They would prepare the detailed plans for their own areas within the framework of the town and country plan prepared by the county council. They would be given all the functions at present performed by the largest non-county boroughs in regard to housing, reconstruction areas, slum clearance, town improvements, sewerage and sewage disposal, allotments, libraries, museums and art galleries, civic restaurants, food and drugs, cemeteries and crematoria, mortuaries, parks, open spaces and playing fields, baths and wash-houses and many other matters.

The principal differences which would exist between a new county borough and the present ones is that the county council and not the county borough council would be responsible for the main town and country plan, for the police force, the fire service, land drainage, small holdings, remand homes, approved schools, road fund and local taxation licences, the diseases of animals and the finance of highways. Thus the largest and wealthiest towns would be brought into the county system for a few—in my opinion, far too few—purposes. They would continue to exercise autonomous powers over a wide range of local government functions. They are correctly described in the Report as "most-purpose" authorities, to distinguish them from the county district councils, which are not to be given so large a degree of responsibility, and the all-purpose county boroughs of to-day.



It will be seen that all major organs of local government would become counties. There are 17 cities or towns which the Commission considered suitable to be governed by a single-tier county council. These are Birmingham, Bradford, Bristol, Coventry, Derby, Kingston-upon-Hull, Leeds, Leicester, Newcastle-upon-Tyne, Nottingham, Plymouth, Portsmouth, Sheffield, Southampton, Stafford North (Potteries), Sunderland, and the urban complex centred on Brighton. All but four of these are at present cities or county boroughs. Most of them have, or will have if their demands for extended boundaries are met, populations within the prescribed limits of 200,000–500,000. Birmingham stands out as a monster with a population of 1,085,000; and should therefore have two-tier local government in accordance with the general standards laid down. But the Commission did not recommend this course, although they expressed the view that more local interest would exist in Birmingham, Manchester and Liverpool if the populations were divided for local government purposes. The reason in the case of Birmingham is believed to be the simple one that no one at the city hall wants a change of this kind.

The proposals relating to Manchester and Liverpool were on very different lines. There are at present no less than 17 county boroughs in Lancashire; and in their previous report (for 1946), the Commission explained that the proposals already before them for creating and extending county boroughs would, if conceded, reduce the population and rateable value of the Lancashire County Council by at least 63 per cent.! In order to prevent so fantastic a result from coming about, the Commission suggested a radical transformation. North Lancashire would be united with Westmorland to form a new county of about 280,000 population and 796,000 acres. The rest of Lancashire (with the Wirral and parts of Cheshire) would be split up into four new counties which would include within them all the existing county boroughs with the possible exception of Bury, which might revert to a non-county borough status. There would thus be (1) *Lancaster Central* (1,180,000 population) containing Blackburn, Blackpool,



Burnley, Preston and Southport; (2) *Lancaster South* (1,040,000 population) containing Bolton, Rochdale, St. Helens, Warrington and Wigan; (3) *Lancaster South-East and Chester North-East*, with over one million population and containing Manchester, Oldham, Salford, Stockport and Stretford. This county would be based on Manchester and neighbourhood; (4) *Lancaster South-West and Chester North-West* (1,385,000 population) centered on Merseyside. This would contain Liverpool, Birkenhead, Bootle and Wallasey.

Yorkshire would be treated in a similar way, excluding Bradford, Leeds, Kingston-upon-Hull and Sheffield which, as we have seen, were destined to become single-tier counties. Outside these cities the county would be divided into four administrative counties (in place of the three Ridings) which would contain the remaining county boroughs. Staffordshire would also be split up into three administrative counties containing the several county boroughs. Stafford North, based on the potteries, would have single-tier government, while Stafford Central and Stafford South would each have a double-deck structure.

Now for the amalgamations. East and West Suffolk should be merged; so too should Hereford and Worcester. Cambridge would be allowed to swallow up the undersized Isle of Ely, Huntingdon and Soke of Peterborough; while Rutland would be united to Leicestershire. Lincoln (parts of Kesteven) would be joined with Lincoln (parts of Holland) and the City of Lincoln to make a new county of Lincoln South. Lincoln (parts of Lindsey) which is already much larger, would be joined with Grimsby to make Lincoln North.

The Commission rejected without a reasoned argument the majority recommendation of the Royal Commission on Local Government in the Tyneside area<sup>1</sup> for a unified body to cover the whole lower Tyne area together with the rest of Northumberland. They substituted a curious plan for dividing up Tyneside between Newcastle-on-Tyne, Northumberland and Durham, with Tynewmouth, Gateshead and South Shields as new style county

<sup>1</sup> Cmd. 5402/1937.

boroughs. Tees-side, by contrast, would be treated as a single area included within York North.

The position of Wales was left indeterminate and the Commission merely adumbrated several possible alternatives.

The Commission had already recommended in their earlier report<sup>1</sup> that the functions of county districts should be assimilated, regardless of their division into urban districts, rural districts or non-county boroughs. This remained an important feature of the proposed reorganisation. In the 1947 Report, however, the Commission made the novel proposal that each two-tier county shall have its own individual scheme of delegation of functions by county councils to district councils. The idea is that Parliament would enumerate the functions which could be delegated, leaving it to each county council and the county district councils (or an independent body in consultation with them) to frame a scheme suited to the needs of their particular area. The general principles on which such schemes should be based would be laid down by Ministerial regulations to be approved by Parliament. "Whatever method is adopted," the Commissioners remark, "it must be flexible. We are sure that what is right for one county is not necessarily right for another and that what is right for one county district is not necessarily right for another in the same county."<sup>2</sup>

In addition to their delegated functions, district councils—and this applies *a fortiori* to county borough councils—would also possess their own inherent powers, conferred upon them either by statute or charter. The Commission expressed an unfavourable view about the system of delegation to divisional executives introduced by the Education Act, 1944. Delegation, they consider, must always be less effective and convenient than autonomous provision of a service by a local authority of the appropriate size. For that reason they recommend autonomous powers whenever possible. But for certain services and in certain areas delegation is not only valuable but an essential form of

<sup>1</sup> Report for 1946. Par. 33.

<sup>2</sup> 1947 Report. Page 30.

co-operation.<sup>1</sup> At the lowest level of all the Commission wished to retain parish councils and also to extend the idea to neighbourhood units or wards in towns, which might have their own small community councils.

It is interesting to compare the present major authorities with those which would exist under the Commission's plan. There are at present 49 county councils and 80 county boroughs in England. Their scheme contemplated 67 new counties, of which 47 would be two-tier and 20 one-tier. In addition, there would be 63 county boroughs, which would no longer be primary organs as they are at present.

Any scheme of local government reform must be judged by three main criteria. First, it must stop, once and for all, the conflict between county councils and county borough councils which has been gnawing at the vitals of local government for the last 30 or 40 years. Here we can say that the scheme is an immense improvement over the present situation. In several places it would achieve the fundamental aim of integrating the big town with the surrounding countryside or of linking it for local government purposes with the rest of the county. It does not go the whole way in this respect, for reasons which will be explained shortly; but it does at least abolish the fatal separation of town and country in watertight compartments which was made in 1888.

A second object of local government reform should be to eliminate the unfit units and to replace them by others of suitable size and with adequate resources. Here again we can approve the Commission's plan, at least as regards the disappearance of the weakest existing county councils and county boroughs from the list of new top-tier authorities. The Commission adopted the right method of fixing maximum and minimum standards of size and moulding the structure to comply with them. I do not consider that the proposed units would satisfy contemporary requirements, for reasons which are explained below, but that is a different point.

The third object of local government reform should be to provide areas and authorities which are capable of carrying on

<sup>1</sup> Page 10.



those services which require large-scale planning and administration. There can be no doubt that the Commission's plan fails in this respect.

Its failure is partly due to the superficial consideration which the Commission gave to the size of local government units. The Report discusses the matter cursorily in three pages and makes no attempt to analyse the requirements of the various services. The Commission in the end took as its general aim, maximum population figures of 500,000 for a single-tier county and 1,000,000 for a two-tier county; but this is not based on any scientific investigation. It appears to be no more than a mere guess.

### THE REGIONAL PROBLEM

The Commissioners never for a moment turned their eyes towards the regional movement which has wrought havoc with local government. They did not ask why responsibility for electricity and gas supply, civil airfields, hospitals, trunk roads, passenger road services, and other services, has recently been taken away from local authorities and given to regional or central bodies; or under what conditions it might be practicable for these functions to be restored to the realm of local self-government. The Commissioners apparently accepted as a *fait accompli* the deplorable state of diminished power, interest and responsibility in which local government finds itself at present, without diagnosing the underlying causes or seeking a fundamental remedy.

Yet surely there are some extremely important lessons to be learnt from recent events. It is not an accident that the public utility, road transport, and hospital services require regional administration and planning. Nor is it far-fetched to assume that, if local government could be projected on to a regional scale, and elected councils set up covering the regional areas which technical reasons render necessary for public utility services, town and country planning, hospital administration and other services, it would be practicable to demand a reversal of current centralizing trends. If there were an *available alternative* to centralization, the outlook would be entirely changed.

Unfortunately the Commissioners had neither the courage nor the imagination to consider these aspects of the matter. They accepted by implication the reduced status of local government as final. Indeed, their proposals for several areas would result in the creation of substantially smaller authorities even than the present ones. This is so notably in Lancashire and Yorkshire.

The excessive caution and lack of boldness of the report is evident if we compare its proposals with those which were made in 1946 at a conference in Manchester attended by members of Manchester and Salford county boroughs, 14 non-county borough councils, 14 urban district and three rural district councils. The sub-committee issued an admirable report advocating a new administrative county for Manchester and district. After explaining the increasing difficulty experienced by county boroughs in maintaining local interest in civic affairs, the report declared, "The real remedy lies in the assimilation of the local government system in the region to the wider area of community; to do this a regional authority should be responsible for the major or regional services and local authorities should be responsible for the local services and, in appropriate cases, for the day-to-day local administration of regional services."<sup>1</sup>

The area suggested for the new county of Manchester and district would cover 457,000 acres. It would have a population of 2,630,000 and a rateable value of £19,000,000. It would comprise the county boroughs of Bolton, Bury, Manchester, Oldham, Rochdale and Salford in Lancashire, and Stockport in Cheshire; 11 boroughs in Lancashire, 6 in Cheshire and 2 in Derbyshire; 25 urban districts in Lancashire, 12 in Cheshire and 2 in Derbyshire, together with several rural districts in Cheshire, Lancashire and the West Riding. This would be a much larger and more powerful organ than the county for South-East Lancaster and North-East Chester proposed by the Local Government Boundary Commission, which, as we have already noted, would

<sup>1</sup> Par. 65. See the Report of the Local Government Boundary Commission for 1946, p. 13. For a full account see F. Blackburn: *The Regional Council* (Sherratt). For a good general discussion of the regional problem see P. Self: *Regionalism*.



have a population of only 1,069,000 persons. The difference between the two sets of proposals can be seen from the fact that the former would probably have resulted in Lancashire being divided into three parts, centered on Manchester, Liverpool and Preston respectively, whereas the Boundary Commission divided the county (with neighbouring territory) into five pieces. This signifies more than a difference of emphasis. It is a different conception.

Another striking contrast is between the position of the county boroughs under the Manchester proposal and under the Local Government Boundary Commission scheme. The Manchester report divides functions into three categories. (a) Services to be provided, financed and administered solely by the county council. These consist of water supply, police, fire brigades, public assistance, sewage disposal and welfare of the blind. (b) Services which should be financed, planned, or organized by the county council for the whole county but administered, either wholly or in part, by the district councils as agents. These include education, health (including maternity and child welfare), town and country planning, main sewers, county highways, street lighting, libraries, museums and art galleries, regional parks and open spaces, cemeteries and crematoria, certain functions relating to housing and slum clearance, small holdings and food inspection. (c) Services which are essentially local in character and which can be left entirely to the lower tier authorities.

The Local Government Boundary Commission scheme brings the county borough into the county system for very little beyond the fire and police services, town and country planning and the finance of highways. The large town would, in my opinion, remain independent of the county for far too many functions. It must be borne in mind that the new county boroughs would contribute towards county revenue for only those services which the county council provides in their area and not for the others. Since the Local Government Boundary Commission proposed to confer county borough status on ten non-county boroughs with populations exceeding 60,000, the counties in which they are



situated, would, *ceteris paribus*, be in a substantially worse position than they are at present, both financially and administratively.

My general conclusion on the report is that while it represents a great advance on any previous official document on the subject, it does not go far enough. Its policy of restoring the county borough to the county is sound in principle but its proposals are half-hearted. Its fear of being accused of recommending regionalism has led it to ignore the whole regional problem. The settlement advocated by Manchester and its neighbours for their own area is much preferable to the Commissioners scheme. The Manchester plan was, admittedly, strongly opposed by most of the county boroughs concerned. In seeking to pacify the county boroughs the Commission produced a very astute report, but political considerations must not be allowed to obscure the disadvantages of leaving the county boroughs still too largely separated from the counties. Above all, we must not be content with a mere "equalizing" reform, which lops off the very small and very large authorities without paying proper regard to the organic relation between structure and function.

While recognising the merits of the Boundary Commission, I have suggested that the proposals which it formulated are insufficient to cope effectively with the most pressing aspects of the regional problem. This statement requires explanation.

When I wrote this book in 1930 I was under the impression that the grave defects in local government structure described in Part I could be sufficiently overcome to yield reasonably good working results if joint action by local authorities were undertaken on a far more ambitious scale than had been previously attempted. I therefore concluded that the primary elements in the structure should be the county councils and county borough councils, linked together for particular services by a ubiquitous network of joint boards and committees.

I no longer believe this solution to be adequate. The need for regional planning and regional administration of large-scale services has become far more insistent in recent years. The areas of circulation for economic and social purposes have

expanded owing to further development in transport and communications, and the "areas of consciousness" have become more regional in character. The progress of thought in the physical planning movement has moved towards the closer integration of town and country life. In consequence, the administrative dichotomy embodied in the Local Government Act, 1888, which introduced the distinction between county council and county borough, is an outworn conception. The regional surveys and plans which have been made for London, Birmingham, Manchester, and other conurbations, have shown that proper areas cannot be obtained by any simple combination of county boroughs and county councils. Above all, the full-length study which I made of the metropolitan region<sup>1</sup> has convinced me that it is hopeless to expect any high degree of co-operation between county boroughs and county councils.

Within the present framework the large towns, especially those which suffered heavy war damage, can put up a strong case to incorporate within their boundaries outlying areas for rehousing at lower densities and deconcentrating congested industrial districts. But the needs of the large town can be met only by ignoring the county problem. The county councils have an unanswerable argument. They have been asked to accept new responsibilities in the spheres of education, police, planning, fire brigades and health services. How can they perform these tasks if they are continually losing the wealthiest and most populous parts of their territories? The Scott Committee rightly urged the need to raise the standard of local government services in the rural areas so as to give the countryman and his children an equal opportunity with the town dweller.<sup>2</sup> How can the counties improve services if they are left with only straggling, sparsely-populated areas of low rateable value? They could, of course, become almost wholly dependent on central grants, but that would be the virtual end of local government in those areas.

Take again the question of decentralizing large numbers of

<sup>1</sup> W. A. Robson: *The Government and Misgovernment of London*.

<sup>2</sup> Report of the Committee on Land Utilisation in Rural Areas (1942), para. 159.



persons—a million in the case of London—together with industrial establishments from the overcrowded and congested central cores of the great cities to the new towns which are to be built on virgin soil or developed from villages and towns designated for planned expansion. How can these vast movements of population take place smoothly and successfully unless they are dealt with on a regional scale by regional organs which will transcend the conflicting interests and limited powers of county boroughs and county councils? These unprecedented aspirations demand new ideas and new measures in the sphere of public administration.<sup>1</sup>

The position which has been reached in all these matters is one which calls for a much higher degree of *physical* separation between town and country than has prevailed during the past 20 or 30 years; indeed, all planners are agreed upon the need to re-establish the age-long distinction between urban and rural communities which has become blurred and even obliterated as a result of the sporadic building and uncontrolled development during the period between the two world wars. At the same time there is need for a much greater integration of town and country for administrative and financial purposes of common interest.

For these reasons I am convinced that a far more radical solution is now required, particularly in the areas surrounding the great urban complexes. No wise or just solution is possible in terms of the present set-up, shuffle the boundaries as you will. The only remedy is to raise local government to a higher plane by creating regional organs which will comprise areas large enough to transcend the conflicting interests of county boroughs and county councils. Those interests are at bottom essentially complementary. By this means we can obtain areas and authorities adequate to administer the regional services such as planning, technical education, water supply, refuse disposal and the rest. Such conurbations as Birmingham, Manchester,

<sup>1</sup> See Report of the London Planning Administration Committee. H.M.S.O., 1949.



Merseyside, Tyneside, Glasgow, Leeds, Bradford, Bristol, and, above all, London, cry out for treatment on these lines.

Broadly speaking, I favour the creation in these and other conurbations of directly-elected regional councils covering both the industrial, commercial and residential core and also a wide stretch of rural and semi-rural hinterland, extending far beyond the suburbs and comprising dormitory settlements, outlying villages and farms, a green belt or ■ brown agricultural belt, garden cities or smaller towns and so forth. These regional councils would be responsible for regional planning and the administration of a few services requiring large-scale administration, such as the larger housing projects, main drainage and sewage disposal, main highways and bridges, water supply, hospitals, gas supply, electricity distribution, the provision of large parks and open spaces, the disposal of refuse, civil airfields, river conservancy and flood prevention, technical education, passenger road services.

In order to establish general regional councils of this kind it will be necessary to compromise between the needs of the various services in the determination of appropriate areas.<sup>1</sup> This will involve the sacrifice of perfection in some spheres of activity, but my study of the metropolitan region has persuaded me that, while all boundaries present some anomalies, it is possible to delimit areas which will broadly satisfy the main regional needs. The alternatives to a solution of this kind are so calamitous to local government that we must not allow action to be impeded by the technical difficulty of ascertaining suitable regions. In re-reading Part I of this book I feel that I accepted somewhat too readily the conflicting demands of the specialists in the various services for areas of particular sizes and shapes without paying sufficient regard to the over-riding needs of the local government system as a whole. Or possibly I failed to examine sufficiently the possibility of compromise.

Below the regional council there will need to be a second tier of municipal authorities administering the local services in town

<sup>1</sup> *Infra*, pp. 151-161.

or country areas respectively within the region. The regions will be too large to be administered by a single authority and a double-deck system will therefore be required. The principle of major and minor authorities which is embodied in county government would thus be preserved and projected on a larger scale. It would be applied to the conurbations which, apart from London, are largely administered by county borough councils. The conception of a two-tier system for the great conurbation is right in principle, though in the case of London it has been badly applied for political reasons. I have described elsewhere in some detail the distribution of functions between major and minor authorities which I propose for the metropolis and the relations between them.<sup>1</sup> This type of organization could equally well be applied to the other conurbations.

There are two points which may be emphasised. One is that we should not contemplate more than two tiers of authorities. A three-deck system would be wasteful and cumbrous. The other is that I do not propose the whole country shall necessarily be dealt with on the lines suggested above. The practicable method of approach is to deal first with the conurbations, which are in dire need of regional government for the reasons I have explained, and then to consider what is the best organization for the residue, which will comprise the smaller and less industrialized towns and the more rural counties. It is by no means necessary that we should have only a single uniform pattern of regional and local government in areas possessing widely differing characteristics.

On the other hand, it is possible that some areas which cannot be described as conurbations may be susceptible of treatment on similar lines. Wales, for example, is generally recognized to need regional government, though there are differences of opinion whether Wales should form a single region or be divided into two regions for the North and South respectively.<sup>2</sup>

If regional councils were established there would be a prac-

<sup>1</sup> W. A. Robson: *The Government and Misgovernment of London*, Part III.

<sup>2</sup> See Alderman Edgar L. Chappell: *The Government of Wales* (Foyles) for an excellent discussion of the problem.



licable alternative to the transfer of functions from local authorities to central departments or special bodies. After all, the hospitals have been nationalized in order to be regionalized. Unless a bold step of this kind is taken, we may well repeat the mistake which was made in the 19th century of creating a series of separate bodies for individual services; boards of guardians, health boards, school boards, improvement commissioners, highway boards and several others. This is certain to lead to confusion, extravagance and inefficiency. We have already repeated the error in London, with its separate authorities for water, police, transport, the port, electricity and other services. The metropolis has in consequence developed in a chaotic manner.

In the last quarter of the 19th century nearly all the statutory authorities for special purposes were swept away and their functions transferred to the general local authorities which were set up to replace them. Only the Boards of Guardians lingered on until 1929, when they, too, were abolished. We must not, however, assume that a similar process will happen in the 20th century. Such a complacent view leaves out of account the vested professional, technical and administrative interests which are brought into being by the creation of *ad hoc* regional or national machinery to deal with hospitals and the health service or public utilities. These vested interests may well prove extremely tenacious of their separate and independent modes of administration, irrespective of the fact that they all constitute forms of public ownership and operation. They may thus present an insuperable obstacle to any subsequent attempt to integrate these single-purpose bodies into a general system of regional government. Those who console themselves for what is now happening or threatening by the thought that the 20th century, like the 19th, will have its happy ending, may well be disappointed.

There are signs of a growing realization among local councillors of the extreme danger which is threatening the whole system of local government from the process of erosion and denudation. A



conference on local government held by the Association of Municipal Corporations in September, 1946, at Eastbourne revealed a state of acute apprehension and alarm on the part of almost every speaker and contributor to the discussions except the then Minister of Health (Mr. Aneurin Bevan).

Three main causes of disquiet were stressed by the Mayor of Lincoln (Alderman Hill). First, the trend away from the elected body to the selected body, or in some cases to the *ad hoc* body, which may be elected but is not a part of the ordinary local government structure. Second, the trend towards centralization. Third, the trend towards transforming local authorities from independent operating bodies to mere agents of the central government.<sup>1</sup>

#### MR. ANEURIN BEVAN AND LOCAL GOVERNMENT REFORM

Mr. Bevan was Minister of Health in the Labour Government from 1945 to 1950, and during that period his department was responsible for the general well-being of local government. In the Local Government Boundary Commission, Mr. Bevan had at hand a new and promising instrument for effective reform. He was, moreover, in a position to foster, guide, or hinder reform in a quite decisive way, for the Minister of Health was empowered to make regulations prescribing the general principles by which the Commission were to be guided. Unfortunately, Mr. Bevan neither understood the opportunities open to him nor was willing to devote time and energy to the matter. His address to the conference of the Association of Municipal Associations in 1946 set the keynote for all his subsequent actions. His speech on that occasion was a model of evasion. After explaining that some functions have transcended the old organs of local government and that the local government instrument has therefore become inadequate, Mr. Bevan disclaimed any responsibility for the situation thus revealed. "It is not a matter for me," he said, "I throw the charge back." In short, the Government had to assume the obsolete character of local government areas and authorities as

<sup>1</sup> See Report of Proceedings of the Conference, p. 25.

something permanent and irremediable, and on that basis merely decide whether or not particular services should be entrusted to them or diverted elsewhere. In adopting this attitude, Mr. Bevan virtually relinquished his constitutional responsibility as Minister of Health for the general well-being of local government.

The extreme lethargy and indifference with which he viewed the problem was revealed by his attitude towards a resolution before the Conference asking for an investigation into the structure of local government. He simply dismissed this with the statement that it would have to be preceded by an investigation into the kind of society in which local government must find its place. As the functions were undergoing considerable change and "we do not know what context local government is going to live in, it does not seem to me to be an appropriate time for an enquiry of that sort." Considering that the Labour Government was in process of carrying out a vast programme of economic and social reconstruction, one would have thought the then Minister of Health would have known better than most people the emerging shape of the welfare state. One would also have thought the moment singularly propitious for an enquiry into the role of local government in that state, rather than to wait until local authorities had been deprived of their powers, shorn of their independence, undermined and by-passed in many different ways, before beginning an investigation which would largely be *post-mortem*.

Mr. Bevan had begun his speech by assuring his audience that they need have "no misgivings about the general attitude of the Government towards local government." Later in his address Mr. Bevan observed that local authorities were naturally jealous and apprehensive at losing functions, and he assured them that additional functions would be given to them in order to maintain the vitality and importance of local government. He ended by declaring his belief that local government has an even more glorious future than its past and expressed his conviction that "we are going to broaden its functions and enrich its administration and add to its significance in the social life of our people."



In the meantime, the Boundary Commission would make such adaptations as are necessary in the transition period.

The following year the Local Government Boundary Commission made their principal report described above.<sup>1</sup> The Commission pointed out that they had reached the conclusion that in many areas their powers and instructions did not permit the formation of local government units as effective and convenient as they should be. Faced with a choice between making second-best modifications in the existing system within the limits of their powers or of explaining their proposals for more far-reaching reconstruction, they decided to choose the latter alternative. "If our recommendations commend themselves, some legislative action and some amendment of the general principles (laid down by the Minister in his regulations) will be necessary. If they do not, it will be our duty to proceed to carry out our task on the basis of the present instructions, but in that case we should necessarily reconsider many of the regroupings of units recommended in this Report."

As we have seen, the Commissioners devoted much of their report to the functions of local authorities, although they had no jurisdiction to consider powers. In this they shared the view which Mr. Bevan had expressed in Parliament that it is nonsensical to attempt to discuss local authority boundaries without also talking about functions and *vice versa*.

The 1947 Report of the Local Government Boundary Commission was virtually their swan song. Shortly afterwards Mr. Bevan announced in Parliament that he intended to abolish the Commission and this was carried out in 1949. In the debate on the Local Government Boundary Commission (Dissolution) Bill, Mr. Bevan explained that he had been driven to take this step by the lack of support among local authorities for the Commission's proposals, and by the inadequacy of their powers. Thus ended a promising experiment which might have produced good results if the Minister had supported the Commission and asked Parliament to enlarge their powers so that they could reform

<sup>1</sup> Report of the Local Government Boundary Commission for 1947. H.M.S.O.



local government more comprehensively. Instead he took the reactionary step of restoring the sterile and obstructive Private Bill procedure for effecting alteration of areas. This deplorable step was accompanied by the usual expression of faith in the virtues of local government which has become common form with Ministers who intend to do nothing to help it overcome the deep-seated malaise from which it is suffering. Mr. Bevan also explained that the Government was examining the whole question and would some day announce its conclusions. Nothing further was heard of this enquiry.

The Local Government Boundary Commission (Dissolution) Act, 1949, has restored, with slight changes, the position which existed between 1926 and 1945 as regards methods of altering boundaries and authorities.<sup>1</sup> We need not consider the legal and Parliamentary procedures which have now been re-established. It suffices to say that no major improvements of any kind can occur under the obstructive and unscientific method which leaves questions of local government organization to be fought out at great cost as conflicts between individual county councils ardently defending their possessions, and ambitious county borough councils seeking boundary extensions or borough councils aspiring to county borough status. No new types of local or regional authority can emerge under the present dispensation, and it is just these which are needed.

#### THE READING COMMITTEE ON LONDON

The abolition of the Local Government Boundary Commission was not an isolated incident. It will be remembered that London was excluded from the Commission's jurisdiction for reasons into which we need not inquire. In 1945, however, a Committee was set up with Lord Reading as Chairman to examine and review the number, size, and boundaries of the metropolitan boroughs and the distribution of functions between the L.C.C., the City Corporation, and the metropolitan boroughs, and to make recom-

<sup>1</sup> For a description see W. O. Hart: *Introduction to the Law of Local Government Administration*, 5th edition, Chapter III.

mendations. It was clearly wrong to inquire into the organization and functions of the minor authorities in London before settling the much more important question of the constitution, size and character of the major organ in the metropolitan region. The proper course to have adopted in 1946 would have been either to enlarge the terms of reference of the Reading Committee so as to enable it to deal with the regional problem, or to appoint another committee in its place, or to authorise the Local Government Boundary Commission to consider both London and Middlesex. Unfortunately, Mr. Bevan adopted none of these alternatives. He merely abolished the Reading Committee on the ground that "the problem which the Committee was asked to undertake cannot satisfactorily be divorced from that of Greater London and any determination of the areas of metropolitan borough councils and of the distribution of functions between them and the L.C.C. must await an investigation into the wider problem." Once again a purely reactionary policy was adopted.<sup>1</sup>

These ineluctable facts are set out not for the purpose of attacking Mr. Bevan—although the writer is highly critical of his failure to tackle the task of revitalising local government—but in order to show that his record as Minister of Health reveals no traces of any zeal for radical reform or ■ genuine belief in local government. It discloses on the contrary an attitude of neglect and indifference towards local government characteristic of the Labour Party as a whole since 1945, at ■ time when serious amputations were taking place on the body of local government.

#### THE PROPOSALS OF FOUR ASSOCIATIONS OF LOCAL AUTHORITIES

After the dissolution of the Local Government Boundary Commission the Association of Municipal Corporations, the County Councils Association and the associations representing urban districts and rural districts, decided to confer together to see if they could agree upon ■ scheme of local government reform for submission to the Government. In May, 1952, the

<sup>1</sup> *The Times*. Parliamentary Report, October 25th, 1946. The problem of London is discussed ■ length in my book *The Government and Misgovernment of London* (2nd edition), see especially the epilogue.

Association of Municipal Corporations withdrew from these discussions and the National Association of Parish Councils was invited to participate in them. In March, 1953, a report was issued containing the proposals and recommendations agreed by the representatives of the County Councils Association, the Urban District Councils Association, the Rural District Councils Association, and the National Association of Parish Councils.

This was the first occasion on which these associations had shown sufficient common sense and spirit of co-operation to sink their minor differences and agree on a programme of reform for local government as a whole. It was most unfortunate that the Association of Municipal Corporations withdrew from this attempt to find an agreed basis of reform. The explanation may be that the Association of Municipal Corporations confronts special internal difficulties owing to the fact that county borough councils and non-county boroughs do not always see eye to eye on questions of local government organization.

The joint report of the four associations consists of a short introductory statement followed by an appendix containing the recommendations. We are surprised to learn from the former that members of both Houses of Parliament are "intensely interested in the reorganization of local government." This good news has indeed been kept secret for an unduly long time. An even more astonishing remark is that "the existing framework of local government has proved to be not only satisfactory but also so flexible as to be capable of modification and evolution without the necessity of any alteration of structure. The proposals are therefore based upon the existing types of local authorities." Would that these observations were true! For in that event local government would not be in the parlous state in which it now finds itself.

The report does not give a reasoned case for the conclusions which it presents. The representatives of the associations expressly declare that they did not think it desirable to explain the reasons which led them to reject alternative schemes for local government reorganization, such as regional government or



the introduction of one-tier authorities. While we may regret this decision of the signatories to spare themselves the mental effort required to justify their scheme on rational grounds, the proposals they advocate can nonetheless be considered on their merits. A more serious defect is the absence of any explanation of what is meant by some of the most important features of the scheme. Some light on the matter can, however, be obtained from ■ commentary on the report issued as ■ separate document.

The report assumes the continuance of a system of two-tier government within conurbations and administrative counties (with parish councils forming a third tier in rural districts); and one-tier government elsewhere. But the existing administrative counties are not to be regarded as sacrosanct, and the Ministry of Housing and Local Government is asked to conduct a general review of county boundaries, for the first time since they were established in 1888. The minister would be authorized to divide, amalgamate, alter and extend administrative counties in order to ensure that they are made, individually and collectively, effective and convenient units of local government.

County boroughs with ■ population of less than 75,000 would revert to non-county borough status. This would affect 19 county boroughs, including Chester, Canterbury, Barrow-in-Furness, Lincoln, Eastbourne, Hastings, Worcester, Bury, and Burton-on-Trent.

Non-county boroughs and urban districts would not be entitled to apply for county borough status unless they have ■ population of 100,000 or more. Even then they must not lie within a conurbation. Of the 13 non-county boroughs and 3 urban districts which satisfy the population condition only 2—the Borough of Luton and the Urban District of Rhondda—are likely to be eligible for county borough status, since all the others are situated in the Greater London area, which would obviously be a conurbation.

The proposals affecting conurbations are extremely vague. Parliament would be asked to define by statute the boundaries of the great conurbations. These conurbations would then be

reviewed by the Minister of Housing and Local Government, who would draw up and submit to Parliament for approval schemes defining the authorities to be established in each conurbation and the distribution of functions between them. No hint is given as to the number, size, or character of the conurbations, nor is there any indication of the form of government which is contemplated for them except that it is to be a two-tier system. Is there, for instance, to be one, two, or several major authorities in a conurbation? Are the county boroughs to be suppressed, converted into 'most purpose' authorities (as in the Local Government Boundary Commission plan), or transformed into county councils (as in the Manchester Corporation plan)? Are the conurbations to be genuine regions, comprising one or more large commercial, cultural and industrial cities with their associated suburbs, satellite towns, outlying housing estates, rural hinterland, agricultural or market garden belt? Or is a conurbation to be no more than the whole built-up area of a large town?

Without knowing what is intended it is impossible to express any opinion on the merits of this crucial feature of the report. For in effect all that it says is: let there be conurbations. Let Parliament define them. And let the Minister create a two-tier system of local government for them. It is possible that the associations considered this problem to be too difficult and contentious for them to solve; and that in consequence they thought it best to leave it to the Minister and Parliament. But, on the other hand, one has heard rumours that the associations have dangerously narrow and cramped ideas about conurbations and their government; and it is at least possible that they would try to persuade the Minister to adopt these ideas and even seek to obtain a private understanding with him that he will only deal with the conurbations on a parochial scale. This would be disastrous. The matter is far too important to be left in the twilight.

After the administrative counties have been reviewed by the Minister, the county councils would undertake a review of county districts on the lines authorized by the Local Governments Acts of

1929 and 1933, except that boroughs and districts would be treated alike for this purpose.

The distribution of functions between county councils and county district councils would be dealt with on novel lines. The report contends that local government services vary so much from one place to another that a uniform allocation of powers is undesirable. Hence, within the counties, a much greater degree of flexibility and diversity is proposed than that which now exists.

Functions are classified into three categories. Schedule I of the report contains those which are to be the exclusive responsibility of county councils, subject to a general power of delegation. These include the preparation and revision of development plans under the Town and County Planning Act; welfare services relating to blind persons, children and young persons, the old and the handicapped; approved schools and remand homes; coroners, diseases of animals, the police; fire brigades; the ambulance service and mental health; small holdings; registration of births, deaths and marriages; libraries in rural districts, physical training and recreation; most of the functions connected with access to the countryside and nature conservation arising under the National Parks Act; and a number of other services now administered by county councils.

Schedule II contains the functions which are to be the exclusive responsibility of county district councils, or, in the case of rural districts, divided between the rural district council and the parish council. These comprise nearly all the services now entrusted to county district councils, such as housing and slum clearance, water supply, the lighting cleansing and watering of streets, collection of rates, refuse collection and disposal, baths and wash-houses, burial grounds and cemeteries, civic restaurants, community centres, libraries (in boroughs and urban districts) nuisances, food and drug administration, sewerage and sewage disposal, etc.

Schedule III enumerates the functions which are to be the primary responsibility of county councils, but the subject of delegation to county district councils to the extent (if any) and



in the manner provided for by delegation schemes. It is here that we find the element of flexibility. In each county a joint committee (composed of an equal number of members representing the county council and the district councils) would prepare a scheme of delegation. This committee would have complete freedom to leave all Schedule III services to be administered entirely by the county council; or to delegate them to those county district councils which are capable of performing them efficiently and conveniently. Varying degrees of delegation would be permitted to authorities according to whether the scheme classified them as entitled to the full degree of delegation or a lesser amount.

The services in this schedule include all branches of education, civil defence, fertilisers and feeding stuffs, food and drugs administration, highways, libraries (except in rural districts), town and country planning functions except the preparation of the development plan, weights and measures, the licensing of theatres and cinemas, and the welfare of old people.

This proposal would permit a radical change in the administration of education, to take one example. In place of the present method of delegation to divisional executives (which usually have no relation to county districts) delegation of all educational functions could be made to selected county districts. A medium size town of, say, 60,000–70,000 population might thus administer its own education system, while this degree of autonomy would presumably not be accorded to a rural district of 20,000 persons.

Several important points should be noted in regard to this part of the report. First, much greater use is made of the principle of delegation than ever before in the history of British local government. Second, the old device whereby county districts of specified sizes were permitted to claim the right to have certain services delegated to them, has disappeared. Third, county district councils would not be permitted to relinquish any of their exclusive responsibilities comprised in Schedule II. They would therefore have to be capable of discharging them effectively. Fourth, the joint committee to be set up in each county to draw up a county delegation scheme, would not decide that a particular county

district council should receive delegated powers, or the extent to which functions should be delegated to any such council. Its task would be to decide whether the conditions in the county make it expedient that a particular function listed in Schedule III should be included in the county scheme; and if so, what degree of delegation of that function should take place in view of the nature of the service, the characteristics of the county, and the administrative arrangements of the county district councils. When all this has been settled and the scheme has gone into operation, it would then be open to a county district council to apply to the county council for delegated powers in accordance with the provisions of the scheme. In case of a dispute between a county council and a district council an appeal would lie to a tribunal composed of members appointed by the local authority associations.

Despite the lavish use made of the device of delegation in the report, no examination is made of the advantages or disadvantages of this method of conferring or distributing powers. More serious is the fact that the report does not attempt to analyse the nature of delegation or to state what it does or should mean. The only relevant passage on the subject is a statement that whatever the degree of delegation and whatever the authority to which power is delegated, the county council shall retain sufficient financial control to ensure (a) that the county district council's expenditure is based on the estimates approved by the county council and (b) that expenditure is incurred only on authorized purposes. In the second place, the county council is to have the right, after consulting the district councils, to determine broad policy, leaving the county district councils in possession of "reasonable latitude to administer the delegated functions within that policy."

This cursory statement is totally inadequate to deal with a situation in which delegation would play a decisive part in determining the independence and prestige, the interest and responsibilities, the powers and status, of county district councils, and which would also settle in large measure their relations with the county council. The operation of the provisions for delegation in the Education Act, 1944, the National Health Service Act, 1946,



and the Town and Country Planning Act, 1947, have given rise to vast disparities of principle and of practice; and in some counties deep resentment and even bitterness have been created among county district councils, divisional executives and other minor organs by the high-handed attitude of the county council in respect of delegated functions. To take one example, if delegation is what the Middlesex County Council conceive it to be, it is not worth having. For Middlesex regards even an excepted district under the Education Act, 1944, as a mere tool of the county council, unable to decide anything of importance for itself, and compelled to employ the officers of the county to carry out its functions. On the other hand, delegation might mean a great deal if it were given a liberal interpretation by county councils whose main object was not to bully and domineer over the minor authorities in their area, but to afford them the greatest possible measure of freedom and responsibility consistent with over-all control of major policy and finance.

Let us now attempt to evaluate the proposals of the associations in the light of the three criteria by which we have previously suggested<sup>1</sup> any scheme of local government reform must be judged. First, would they stop the conflict between county councils and county borough councils which has been gnawing at the vitals of local government for several decades? The answer is that they might end this debilitating struggle within the conurbations; that they would certainly end it in the case of the smaller county boroughs which would be demoted to county borough status; but that elsewhere it would remain untouched.

Secondly, would these proposals eliminate the unfit units of local government and replace them by others of suitable size and with adequate resources? All one can say is that the review of administrative counties would provide an opportunity for much-needed reforms in this direction, although what use would be made of it by the Minister cannot be foreseen. The same applies to the provisions regarding conurbations and county districts. The recommendations are potentially capable of eliminating the

<sup>1</sup> *Ante* page 45-46.



halt and the lame among local authorities of all classes but we cannot say more than this.

Thirdly, will the scheme provide areas and authorities able to carry on those services which demand large-scale planning and administration? Here again the answer is that the scheme could provide such areas and authorities, but there is no certainty that it would do so.

Apart from this and other defects which we have mentioned, the report has sufficient merit to justify serious consideration. Its principal features need to be clarified and amplified, and given much more shape and substance, in order to form a basis of further discussion.

#### THE ATTITUDE OF THE ASSOCIATION OF MUNICIPAL CORPORATIONS

The reaction of the Association of Municipal Corporations was prompt, forcible and wholly unfavourable. The Association would have nothing whatever to do with the report.<sup>1</sup> They declined to pay even a conventional tribute to two-tier local government, which they regard as a second-best form even in those areas where it may be necessary. They refused to accept the proposal that any existing county boroughs should lose status or functions; and they not only opposed the 75,000 population minimum but contended that it should be lowered to 50,000. Even in the conurbations the Association of Municipal Corporations are quite unable to see why areas should be denied the advantages of all-purpose authorities. If in any conurbation it should be found necessary to transcend the county borough council which is part of the Providential Plan for the blessing of mankind, any arrangements made to facilitate planning or administration in larger areas should be regarded as exceptions to the general principle that county borough government is the best form and should prevail wherever possible.

<sup>1</sup> See the Observations of the Reorganisation of Local Government Subcommittee of the General Purposes Committee of the Association of Municipal Corporations on the Report, published on 16th June, 1953.

The observations of the Association on the Report drawn up by the four other associations made no attempt to conceal the blatant fact that the Association of Municipal Corporations is primarily and, so far as one can see, exclusively concerned to promote the special interests of municipal corporations. Again and again they considered proposals in the report purely from the point of view of their effect on boroughs.

Having recorded their complete opposition to the report, the Association's only positive gesture was to bring out of cold storage their own reorganisation scheme, adopted on 23rd July, 1942. This scheme, now eleven years old, was based on the erroneous belief that after the war the scope of local government services would be extended. It proceeded on the assumption that the county borough type of organ should be established wherever possible. "The most satisfactory form of local government" they said, "is for most areas a single authority invested with complete powers of local government within its area." The differentiation between local government in urban and in rural areas which has hitherto prevailed has been carried too far, and the Association of Municipal Corporations sees no reason why the county borough should not comprise both rural and urban areas under the jurisdiction of a single council. This would involve extending county borough boundaries to include very large areas of rural or semi-rural, or mixed urban and rural, territory in the environment of the larger towns. The desirability of this course was argued on the ground that rural areas are not financially able to provide all the local government services they need without the help of urban areas. Nothing was said of the disadvantage of governing remote villages and rural communities, not to mention isolated urban districts, with ■ genuine life of their own, from the town hall of a big city many miles away; or the destruction of community values which this would involve.

The Association of Municipal Corporations admitted in their 1942 report that the simple formula of the all-purpose authority might not always be suitable for those parts of the country containing small country towns with ancient charters, which would



object to being abolished and could not become county boroughs; or those parts consisting of large tracts of rural land; or the large conurbations. Special provision might be necessary in such places and the committee which drew up the report promised to give these matters further consideration. So far, nothing further appears to have emerged on the subject.

The extreme preoccupation of the Association of Municipal Corporations with the narrow interests of their members is shown by an explanatory statement issued by the General Purposes Committee prior to a special general meeting held on 23rd July, 1942, to consider the above-mentioned scheme. In the course of this statement the committee explained that although in some instances it might be unavoidably necessary for the county council to become the all-purpose authority in an agricultural area not containing any important town, the committee "have always contemplated that, in the majority of cases, the functions and areas of existing county councils would be severely reduced and possibly, in some instances, entirely abolished, and a unit of government other than the county council would eventually become the all-purposes authority." With such an enchanting prospect before it, the special meeting could scarcely fail to endorse the scheme. The Association of Municipal Corporations, while reviving in 1953 their scheme of 1942, could scarcely suppose that it would have the slightest chance of success. They even went so far as to remark that their discussions with the other associations had convinced them that Parliament must decide the functions to be performed by local government, how they are to be allocated, and what the structure should be. It seems clear that the Association has lost faith in its own scheme and brought it out of the pigeon-hole merely as a tactical move.

The extension of the county borough form of government is quite impracticable and undesirable as a method of solving the local government problems which confront us to-day. We need larger areas and authorities for the planning or administration of certain major services, and also smaller ones for purely local services. These aims can only be attained through a two-tier



form of local government. We need to combine rural and urban areas for some purposes, but not for all. We need to develop regional government for certain services.

The one point on which the Association of Municipal Corporations is wholly and absolutely right is in its demand that Parliament and the government shall give a lead in this essential matter. For far too long we have been asked to await the emergence of some miraculous scheme which shall represent the agreement of associations whose conflicting interests they are pledged to defend. For too long we have been living in a fool's paradise. It is time to wake up to the realization that any radical solution is certain to meet with strong opposition from some or possibly all the associations. This opposition is much less important from an electoral point of view than most politicians and ministers believe. But even if it were politically powerful, it would have to be faced and overcome for the sake of restoring local government to health. Matters cannot be allowed to drift on any longer as they are now. A deep national interest is at stake, and a way must be found to cut the Gordian knot.

### THE POLITICAL OUTLOOK

In conclusion, we may inquire about the climate of opinion in the political parties and among politicians.

The policy of ■ Government or Parliament may be influenced by the attitude of the Associations, but the trend of opinion within the political party in power will always, if it is strong enough, have ■ decisive effect on public policy. Can one detect any signs of interest or understanding in either of the two principal parties on this subject? So far as I am aware, no public pronouncements have been made by either the Labour Party or the Conservative Party which would justify the slightest ground for hope in this vital matter.

I have already described and criticised in some detail the attitude of the Labour Party towards local government during Mr. Attlee's two administrations which held office from 1945 to

1951.<sup>1</sup> Nowhere, indeed, within the Labour Party today can one see any influential section able or willing to resist the corroding influence of centralization which has infected the whole party. One looks in vain in the Labour Party for political leaders who are ardent guardians of local liberties, eloquent exponents of the need for a great expansion in the scope and functions of local authorities, and ready when in power to take whatever action is necessary to strengthen them in every way.

The most recent document issued by the Labour Party, entitled *Challenge to Britain*, contains a small section covering a quarter of a page under the heading "Local Democracy". This makes the usual statement that Labour attaches the highest value to local democracy. It goes on to say that the structure of local government is in need of reform and the organization must be made more efficient and responsive to local control. But all it promises is an investigation of the existing structure! It is almost ludicrous to suggest that what is wanted at the present time is a prolonged enquiry, occupying several years and leading to further opposition and deadlock. What point is there in abandoning at least the information obtained by the Local Government Boundary Commission?

In the Labour camp, only the co-operative movement is showing any signs of understanding the value of local government and the need to preserve and strengthen it. In 1952, the Co-operative Party passed a resolution at their annual conference calling on the national committee of the party to prepare a report dealing with the problems of local government and community life. The conference also directed the committee to look into the question of local government reform and to report on possible lines of advance. The report<sup>2</sup> of that committee diagnoses the present situation effectively and candidly, although its practical proposals are timid and nebulous. But at least this is a beginning.

The position is more promising in Scotland, where the Scottish

<sup>1</sup> See my article on "Labour and Local Government" in *The Political Quarterly*, Vol. XXIV, No. 1 (Jan.-March, 1953).

<sup>2</sup> *Problems of Local Government*. An Interim Report issued by the National Committee of the Co-operative Party.

Council of the Labour Party has initiated an extensive inquiry. But so far nothing significant has emerged north of the border.<sup>1</sup>

An equally strong case can be made against the Conservative Party, in regard to its attitude towards local government up to the present time. Throughout most of the period from the fall of Lloyd George in 1922 until the resignation of Neville Chamberlain in 1940, Britain was ruled either by a purely Conservative government or by a so-called National government dominated by Conservative Ministers and supported by a large Conservative majority in Parliament. The only real interruptions of Conservative rule in those 17 years were the breaks caused by the short-lived Labour governments of 1924 and 1929-31. During this lengthy period of Conservative administration the sole local government reform of any importance was the abolition of the poor law guardians and the transfer of public assistance to the county and county borough councils carried out by the Local Government Act, 1929. Even this was no more than a belated completion of the movement for superseding *ad hoc* authorities by general purpose councils which took place in the latter part of the 19th century, when the school boards, the sanitary boards, the improvement commissioners and several other types of specialized body were supplanted by borough or county borough councils, district councils, or county councils.

This lone measure, which largely followed the recommendations of the Minority report of the Royal Commission on the Poor Law, appears to have exhausted Mr. Chamberlain's zeal for reform—apart from the remodelling of Exchequer grants to local authorities introduced by the same Act. There was no other influential

<sup>1</sup> In 1951, the Annual Conference of the Scottish Council of the Labour Party held at North Berwick passed a resolution declaring that the time is now overdue for a detailed examination into the structure of Scottish Local Government. "It is apparent," the resolution continued, "that planning developments and the co-ordination of local authority services necessitates the establishment of authorities covering wider areas than our existing city, county, and town councils." The Conference therefore requested the Scottish executive to inquire into the need for such changes and to report to the next year's Conference. Following this instruction, the executive committee embarked on an extensive study of the problems of structure, of functions, and of finance. A report on the subject will in due course be submitted to the Annual Conference.



figure in the Conservative Party even remotely interested in improving and preserving local government.

The contemporary trend of thought in the Conservative party may perhaps be exemplified by a recent speech of Sir Geoffrey Hutchinson, Q.C., M.P., chairman of the Conservative Party national advisory committee on local government. In a talk to the Ilford Rotary Club, Sir Geoffrey Hutchinson proposed that there should be a "Minister for London." In London and Greater London, he said, the normal machinery of local government is out of place. The best solution to the problem of local government in Greater London would be to promote the existing boroughs to county borough status, so that they would have full responsibility for education, health services, and town and country planning. Their activities should be "co-ordinated" by a Minister for London.<sup>1</sup> This proposal is the very negation of progressive reform and opens up an appalling prospect. Instead of creating local government areas and authorities in the metropolis to correspond with modern needs, it would stereotype the existing antiquated organization. To appoint a Minister in charge of London government would be to introduce a super-prefect beside whom the prefect of the Seine and the prefect of police, who rule Paris, would appear to be mere weaklings. If this is a specimen of contemporary Conservative thought on local government, the outlook is indeed gloomy.<sup>2</sup>

There is no real reason why local government should be treated as a subject to political controversy between the parties. All of them agree in theory—though unfortunately only in theory—in venerating it as one of the most treasured parts of our constitutional heritage, and politicians of all parties rightly declare that local self-government is an essential feature of democracy. It should be possible for the parties to agree that measures to reconstruct and revitalize local government should be discussed

<sup>1</sup> Reported in *The Times* newspaper, 24 June, 1952.

<sup>2</sup> Another Conservative view is presented by Mr. Henry Brooke, M.P., L.C.C., in an article entitled "Conservatives and Local Government" published in *The Political Quarterly*, April-June, 1953. But Mr. Brooke has no policy of reform.

on a non-party basis. No one has anything to gain if matters are left to drift on in the present state of malaise. We shall all be the poorer if the decline is not arrested.

A salvage operation of great magnitude is required to remedy the shocking neglect of several decades. This calls for courage, resolution, and an understanding of what is wrong. So far no Government, no party, no Parliament has shown any readiness to grapple with the problem or to do anything except run away from the fearful wrath which is supposed to await any Ministry which attempts to lay hands on local authorities in their present state of imperfection. The matter could, and should, be dealt with on all-party lines. In addition, the relations between central and local government require consideration, and new sources of independent revenue from taxes must be found for local authorities.

The British type of local authority has unique advantages as an instrument of democracy. In no other form of local government do the elected councillors possess such complete control over administrative policy. In many countries the executive work is under the control of a separate organ, such as a mayor or burgo-master, leaving the council with only 'deliberative' functions, the power of passing ordinances or bye-laws, and voting the budget. In this country, by contrast, the council possesses executive power, and the committee system offers opportunities for every member of the council to participate in executive decisions on policy. Service on a local authority or even as a co-opted member of a committee, is a civic experience of quite extraordinary value.

It would be a tragedy if we allowed our system of local self-government to perish because we have become blind to its virtues, or too cowardly to embark on the necessary reforms to restore it to health.

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PART I

THE STRUCTURE OF LOCAL GOVERNMENT

H M

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# PART I

## THE STRUCTURE OF LOCAL GOVERNMENT

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### I

#### CRITICAL

#### ORIGINS

THE local government institutions which exist at the present time in England are a curious compromise between ancient forms and modern needs. The boroughs and borough councils, although reformed by the comparatively recent Municipal Corporations Acts of 1835 and 1882, have their origins rooted in the civic life of the past, and the charters of the older towns bear witness in many cases to a struggle for freedom from the power of the King or local lord. The new boroughs which have been created in our own day are modelled on the reformed pattern of the ancient institution from which they take their name.

All the other local authorities of a general character were set up by statute in the last quarter of the nineteenth century. In several instances they were designed to supersede special bodies established to administer a particular service, such as the local boards of health. But these new local governing bodies, although the creation of modern legislation, were nevertheless to a large extent founded on ancient areas. The parish council, for example, brought into being by the Local Government Act of 1894, is based on the parish, an ecclesiastical unit of great antiquity. The county council, constituted by Parliament for the first time in 1888, takes as its area the county, a feudal or perhaps pre-feudal area. These traditional units, although varying greatly in size, must at some time have borne a rough relation to the physical capacities of man.



The parish is ■ territory which can be covered during the day on foot without excessive fatigue. The county takes its size no doubt from the distance ■ man could travel on horseback from sunrise to sunset. Some counties reveal this origin by their very names: the exceptionally large county of Yorkshire, for example, is divided into *Ridings*, each of which now has its county council.

It can be seen, then, that despite much overlaying and modification of ancient boundaries and many extreme or exceptional cases, both the old and the new types of local authority bear a discernible relation to the age-long physical capacities of man, either on foot or on horseback.

The physical capacities of men and horses are, however, no longer of importance in the administration of local government. The progress of science, improved methods of communication, and modern industrial life—the development of civilization, in short—have given rise to ■ whole series of new considerations which demand to be taken into account in determining the units of government. Much will be said later concerning these new elements which obtrude themselves so persistently; but first it is desirable to survey in some detail the salient features of the present structure.

#### CATEGORIES TRUE AND FALSE

The number of local authorities of each class, excluding those within the administrative county of London, was on April 1st, 1947, as follows:—

61	County councils
83	County borough councils
309	Non-county borough councils
572	Urban district councils
475	Rural district councils
7,000	Parish councils
4,100	Parish meetings. <sup>1</sup>

<sup>1</sup> The figures for parish councils and meetings are approximate.

If we classify the towns and rural districts according to population, we get the following figures<sup>1</sup>:—

Population.		Number and Type of Local Authorities.
Over 250,000		12 County borough councils
100,000—250,000	{	34 County borough councils 13 Non-county borough councils 3 Urban district councils
50,000—100,000	{	32 County borough councils 39 Non-county borough councils 10 Urban district councils 5 Rural district councils
20,000—50,000	{	5 County borough councils 111 Non-county borough councils 100 Urban district councils 113 Rural district councils
10,000—20,000	{	53 Non-county borough councils 158 Urban district councils 202 Rural district councils
5,000—10,000	{	37 Non-county borough councils 150 Urban district councils 116 Rural district councils
1,000—5,000	{	55 Non-county borough councils 148 Urban district councils 39 Rural district councils
under 1,000	{	1 Non-county borough council 3 Urban district councils

(The anomalies as regards population are obvious and extensive. There are no less than 56 boroughs with less than 5,000 inhabitants each, and 93 with fewer than 10,000 inhabitants, while 113 urban districts have more than 20,000 citizens.) Little country towns such as Honiton in Devonshire, with a

<sup>1</sup> The figures given here were obtained from information supplied partly by the Local Government Boundary Commission and partly by the National Association of Local Government Officers. I am greatly indebted to both of these bodies for their help in assisting me to bring the table up to date.

population of 3,333, Tewkesbury (4,557), Wells (5,713), Richmond, Yorkshire (5,900) are incorporated boroughs. On the other hand great urban aggregations like Harrow, which contains 211,550 citizens, remain urban districts. Canterbury (23,780), Chester (46,620) and Worcester (60,510) are county boroughs. Chesterfield, with a population of 64,968, Wrexham with 60,026, and Chester-le-Street with nearly 44,000, are governed by rural district councils.

(The differences in population between areas of the same municipal class are almost grotesque. The counties range from Rutland, which contains about twenty thousand persons, to Middlesex, which has more than two million.) Among the county boroughs Canterbury numbers 23,780 inhabitants, while Birmingham, with 1,063,000, is more than forty-six times as large. At one end of the scale of town councils is the ancient borough of Montgomery, including within its boundaries only 876 souls; at the other end is Ealing, containing as many as 178,590. The population of the urban districts varies from Llanwrtyd Wells (717) to Enfield (24,550), that of the rural districts from 1,200 to 80,000. Even the civil parish, which many people believe to be a homogeneous unit with a standardized devotion to its local pump, discloses a startling range of sizes in terms of population.

(The inequalities of rateable value are no less marked than those of population.) If we classify the county boroughs and county districts according to wealth, we get the following results (see table opposite) at 1942.

As a concrete illustration of the significance of the figures given above, we may take the great industrial centre of Rhondda, which, with a rateable value of £380,000, is governed by an urban district council; while Woodstock in Oxfordshire, whose rateable value is £6,600, is a borough. The district council of Harrow can strike a rate on a value of more than two million pounds; the county borough of Canterbury has only £217,500 at its command for rating purposes. Chesterfield rural district has a rateable value of £290,000. St. Ives in Huntingdonshire, with rate-



Assessable Value.	Number and Type of Local Authorities.
Under £10,000	{ <ul style="list-style-type: none"> <li>14 Non-county borough councils</li> <li>33 Urban district councils</li> <li>16 Rural district councils</li> </ul>
£10,000—£20,000	{ <ul style="list-style-type: none"> <li>21 Non-county borough councils</li> <li>86 Urban district councils</li> <li>43 Rural district councils</li> </ul>
£20,000—£50,000	{ <ul style="list-style-type: none"> <li>43 Non-county borough councils</li> <li>173 Urban district councils</li> <li>155 Rural district councils</li> </ul>
£50,000—£100,000	{ <ul style="list-style-type: none"> <li>45 Non-county borough councils</li> <li>136 Urban district councils</li> <li>155 Rural district councils</li> </ul>
£100,000—£200,000	{ <ul style="list-style-type: none"> <li>69 Non-county borough councils</li> <li>108 Urban district councils</li> <li>82 Rural district councils</li> </ul>
£200,000—£300,000	{ <ul style="list-style-type: none"> <li>3 County borough councils</li> <li>35 Non-county borough councils</li> <li>23 Urban district councils</li> <li>23 Rural district councils</li> </ul>
£300,000—£500,000	{ <ul style="list-style-type: none"> <li>20 County borough councils</li> <li>36 Non-county borough councils</li> <li>13 Urban district councils</li> <li>4 Rural district councils</li> </ul>
£500,000—£1,000,000	{ <ul style="list-style-type: none"> <li>33 County borough councils</li> <li>37 Non-county borough councils</li> <li>7 Urban district councils</li> </ul>
£1,000,000—£5,000,000	{ <ul style="list-style-type: none"> <li>24 County borough councils</li> <li>8 Non-county borough councils</li> <li>1 Urban district council</li> </ul>
Over £5,000,000	{ <ul style="list-style-type: none"> <li>3 County borough councils</li> </ul>

able value of approximately eighteen thousand pounds, is a borough.  
 ( In regard to rateable property we find that here again the

range among local authorities of all types is immense. Although a number of non-county boroughs possess only a mere thousand pounds or so, the maximum approaches £2,000,000. The county boroughs vary in their rateable property from less than £220,000 to more than £7,500,000; the urban districts from a few thousand pounds to two million sterling.

Territorial Size.	Number and Type of Local Authorities.
Less than 1,000 acres {	13 Non-county borough councils 47 Urban district councils
1,000—2,000 acres {	45 Non-county borough councils 93 Urban district councils
2,000—3,000 acres {	2 County borough councils 54 Non-county borough councils 79 Urban district councils 1 Rural district council
3,000—5,000 acres {	16 County borough councils 86 Non-county borough councils 145 Urban district councils 1 Rural district council
5,000—10,000 acres {	40 County borough councils 88 Non-county borough councils 134 Urban district councils 5 Rural district councils
10,000—15,000 acres {	10 County borough councils 10 Non-county borough councils 28 Urban district councils 10 Rural district councils
15,000—20,000 acres {	6 County borough councils 5 Non-county borough councils 23 Urban district councils 39 Rural district councils
20,000—30,000 acres {	6 County borough councils 3 Non-county borough councils 6 Urban district councils 35 Rural district councils

(The third and last quantitative criterion which may be taken to show the utter lack of system or symmetry in the existing municipal structure is territorial size. This element, which is of great importance in local government from many points of view, is usually ignored in discussions concerning municipal affairs.)

The figures on p. 96 do not completely depict the full extent of the territorial range among local authorities of all classes. The rural districts sweep from a thousand acres to nearly 300,000 acres; the boroughs and urban districts from less than a hundred to thirty or fifty thousand acres respectively. The county boroughs, similar in constitutional rank and administrative power, are widely dissimilar in the extent of their territory. Thus, Leeds covers 38,293 acres, Bootle only 2,414 acres. Birmingham sprawls across a vast urban territory of 51,147 acres, while Gateshead, also a county borough, is cribbed, cabined and confined in 4,470 acres. The county borough of Northampton has 6,201 acres, while Stoke-on-Trent has 21,190 acres.

Among the counties variation runs riot in a manner which makes the sportive biological processes of nature appear as a succession of dull uniformities. I will let the figures on the next page speak for themselves.

Running through all these territorial inequalities is a complete absence of correlation between the physical size of an area and the constitutional type of local authority responsible for its municipal government. Cirencester occupies 5,583 acres, and is an urban district; the little holiday resort of Lyme Regis comprises only 1,237 acres, yet is a borough complete with mayor, aldermen and a charter of incorporation. Thurrock in Essex has an acreage of 40,552, but only an urban district council to manage its affairs; Blandford Forum, whose size is less than three hundred acres, is governed by a borough council.<sup>1</sup>

### CHAOS AND CONFUSION

The lack of correspondence between the various classes of

<sup>1</sup> These and most of the other single examples given above can be referred to in the *Municipal Year Book*.



local authority on the one hand and the facts of population, wealth and territory on the other, is for the most part due to

Territorial Size.	Number of Administrative Counties.
50,000—100,000 acres .. ..	3
100,000—300,000 acres .. ..	6
300,000—400,000 acres .. ..	7
400,000—500,000 acres .. ..	14
500,000—600,000 acres .. ..	9
600,000—700,000 acres .. ..	5
700,000—800,000 acres .. ..	2
800,000—900,000 acres .. ..	3
900,000—1,000,000 acres .. ..	5
1,000,000—1,300,000 acres .. ..	3
1,300,000—1,400,000 acres .. ..	2
1,400,000—1,700,000 acres .. ..	2

purely historical causes. The old towns obtained their charters in centuries now long past, and they were very often granted for reasons which might now appear trivial or irrelevant or insufficient. Corporate personality perpetuates itself by its very nature, and thus former tendencies have become fossilized in the structure of local government. The new towns and urban aggregates, on the other hand, have grown so rapidly that in many cases the legal or constitutional classification has become quite anachronistic. Only a continuous or periodic survey of the structure as a whole could have prevented or cured the present confusion; and this has never been attempted. The result, as the late chairman of the Worcestershire County Council explained to a great international gathering of municipal experts in 1911, is that "if one feature characterizes local administration in England more than another it is the utter want of symmetry or system under which it is carried on".<sup>1</sup>

The structure as a whole has never been surveyed. An attempt was made in 1929, by the Local Government Act, to obtain a review of county districts, but owing to local opposition this

<sup>1</sup> J. W. Willis Bund: *English Local Administration in Problems of Local Government*, p. 171.

was only carried out in a half-hearted manner. A substantial reduction in the numbers of non-county boroughs, urban and rural districts was nevertheless effected. The Local Government Boundary Commission which was appointed in 1945 has much more extensive powers; but, as I have pointed out in the Prologue, its jurisdiction is far from complete.

The asymmetry of structure among local authorities of identical type, the extent of which I have endeavoured to depict in quantitative form, has been accompanied during the past half-century by a continuous expansion of the functions of local government.<sup>1</sup> But, as Mr. and Mrs. Sidney Webb point out, in only an insignificant proportion of cases were the areas of the several local authorities determined with any reference to the functions now entrusted to them. "Since the division of England, possibly a thousand years ago or more," they write, "into counties for one set of purposes, into manors for another set of purposes, and into parishes for yet another set, all the circumstances have changed, the population has shifted, industry has been transformed, the means of communication have been revolutionized, and the functions of the local authorities have been entirely altered. Upon the older divisions there have been superimposed from time to time, all down the centuries, new districts for particular purposes, from Municipal Boroughs, Commissions of Sewers and Surveyors of Highways to Boards of Guardians, Port authorities and Joint Asylum Committees, often without any regard to the older divisions. So frequent and extensive have been the revolutions in industry and communications, and so greatly has population shifted, that it would be miraculous if any one of the thousands of separate local authorities now existing found its historic area best suited for its modern functions."<sup>2</sup> But, as these distinguished social historians remind us, the sentimental value of the historic areas has in most cases been lost, for all of them (including the counties) have been cut

<sup>1</sup> R.C.L.G., p. 8.

<sup>2</sup> S. and B. Webb: *A Constitution for the Socialist Commonwealth of Great Britain*, pp. 208-9.

and carved about in piecemeal fashion. In some cases boundaries have been extended out of all recognition, in others new authorities have been created, in others again a county has been robbed of its very heart without regard to the effect of this surgical operation on the remainder of the organism.

I do not propose to embark on a detailed enumeration of the powers conferred upon the various types of local authority. A list of such powers is to be found in any of the standard textbooks, which indeed too often consist of mere catalogues of legislative sections and statutory provisions.<sup>1</sup> Everyone conversant with the texture of local administration is aware that the inequalities of power even between a rural district council, an urban district council and a non-county borough council—all three of which are county districts subject for certain purposes to the jurisdiction of the county council—are sufficiently great to make the differences of rank of considerable practical importance. It is sufficient to mention, by way of example, that an urban district council possesses, in addition to practically all the powers of a rural district council, power to establish baths and wash-houses, sanitary conveniences; and an ambulance service; to improve an unhealthy area; to cleanse, light and water the streets; to provide pleasure grounds, allotments, libraries, museums, gymnasiums, markets, slaughter-houses and fire engines. A non-county borough council (or town council, to use a better and less technical name) in addition to having all the powers and duties of an urban district council, other than those subject to a minimum limit of population, has power to maintain retreats for inebriates, to make by-laws for good rule and government, to regulate advertisements, and to administer a considerable number of other services. If it contains a population in excess of 10,000, the council may administer the Food & Drugs Acts and serve its citizens in all manner of other ways.

<sup>1</sup> Good descriptive accounts are given in J. H. Warren: *The English Local Government System*; Wright and Hobhouse: *Local Government and Taxation*; Hart's *Introduction to the Law of Local Government and Administration* (3rd Edition, by D. J. Beattie).



What we are concerned with is not an examination of the dry bones of the legal skeleton, but the confusion and inefficiency, the waste and overlapping and extravagance, which necessarily result from the present imperfect machinery of government. It is a demonstrable fact that the categories of our municipal structure are not true categories. It can further be shown that they are largely inconsistent with modern needs and social necessities. In view of the lack of correspondence between the facts concerning population, wealth and territory on the one hand, and the rank and power which local councils possess under present conditions on the other, it cannot be said that the existing constitutional framework produces optimum advantage from the standpoint of good administration. Nor is it justified on the ground either of logic or of equity.

It might be contended with some force that neither logic nor equity nor symmetry is of great moment, providing the practical results are satisfactory. There is, indeed, a large number of people in England who take a positive delight in demonstrating that institutions which are alleged to transgress all the abstract principles laid down by unnamed and undiscoverable theorists, nevertheless work with perfect harmony and success in practice. This argument cannot be employed in defence of the prevailing municipal structure, for the simple reason that it is impossible to assert that it works in a satisfactory manner. This becomes distressingly evident if we examine the existing position in regard to some of the more important local government services. I will commence with a group of functions centring round the water system of the country.

#### A CONSPECTUS OF DECAY

Land drainage is one of the earliest functions of local government. For many centuries the necessity for keeping the land clear of water has needed no emphasis beyond the facts of nature. So far back as in the reign of Henry III we find a Commission charged with the drainage of Romney Marsh. By 1427

the first important statute on the subject had been passed, and in 1531 the famous Bill of Sewers became the law of the land. Since then there has been a constant flow of legislation to deal with the subject.

At the present time<sup>1</sup> there are certainly hundreds, and probably thousands, of drainage authorities of one kind or another. There are 49 commissions of sewers, 198 drainage authorities operating under special Acts of Parliament, and 114 *ad hoc* boards elected specially for drainage purposes, making a total of 361 drainage authorities existing entirely outside the general local government structure. In addition, all county councils and county borough councils had powers conferred upon them by the Land Drainage Act, 1926, and four county councils have acquired drainage powers under local Acts of Parliament. Finally, large numbers of small areas throughout the country which at one time or another have been subject to Inclosure Awards have been given duties regarding the construction and maintenance of works for land drainage.<sup>2</sup>

Despite this mass of overlapping authorities, the Royal Commission on Land Drainage in 1927 declared that over many parts of the country where drainage is required, and in some cases urgently needed, no drainage authority of any description is in existence. This is largely due to the fact that authorities have been set up for special areas without any regard to the needs of neighbouring areas.<sup>3</sup>

The absence of drainage authorities in some areas is not, however, so serious a matter as the deplorable ineffectiveness of the multitudinous boards and councils and commissions which, during the past five hundred years, have gradually accumulated

<sup>1</sup> This was written before the Land Drainage Bill had been introduced into Parliament by Lord Noel-Buxton in the spring of 1930. The state of affairs which the measure in question seeks to remedy is set out in the following pages, which I have thought it best to leave untouched. It will be seen later that the new authorities set up by the Bill are in complete accord with the constructive proposals put forward in the later part of this work.

<sup>2</sup> *Report of the Royal Commission on Land Drainage in England and Wales*, Cmd. 2993/1927, p. 7.

<sup>3</sup> *Ib.*, p. 20, Sect. 51.

a vast number of statutory powers and duties. The administration of arterial drainage is conducted by what the Royal Commission on Land Drainage termed "a confused tangle of Authorities,"<sup>1</sup> among whom there is no uniformity of method, of powers, or of liability. The Royal Commission reported that while many drainage authorities are doing admirable work, others are doing none. "The efforts of some Authorities," they state, "are rendered ineffectual by the lack of co-operation of their neighbours, or by the fact that the drainage of adjoining land is under no control whatever,"<sup>2</sup> It would be idle to deny, the Report continues, that a considerable number of drainage authorities are "inefficient or even moribund, due in many cases to circumstances . . . over which they have no control. Some, indeed, have actually ceased to function."

The causes of this unsatisfactory state of affairs are not moral. They do not arise from some specially large dose of original sin in drainage bodies. The reason is to be found in the utterly unsuitable structure of administration on which we at present unwisely rely. "First and foremost among the defects of the present position," declared the Royal Commissioners, "we place the limited area of jurisdiction and rating."<sup>3</sup> Drainage authorities have in a majority of cases wholly inadequate areas over which they may carry on their work and levy rates.

The carving up of natural drainage areas into a multitude of unco-ordinated fragments bearing no relation to physical facts makes it well-nigh impossible for any one of the separate authorities to achieve good results. It may well happen, the Royal Commission pointed out, that if part only of a catchment area is under the supervision of drainage authorities, effective drainage operations cannot be properly carried out for the benefit of the whole area. The consequence is that not only will the areas possessing no drainage authorities be badly drained, but the neglect of these areas may have a very deleterious effect

<sup>1</sup> *Report of the Royal Commission on Land Drainage in England and Wales*, Cmd. 2993/1927, p. 15.

<sup>2</sup> *Ib.*

<sup>3</sup> *Ib.*



on the drainage of other areas where authorities of an energetic and efficient character are in existence. Indeed, in the absence of co-ordination, the operations of an energetic authority may even hamper the effective clearance of the main channel.<sup>1</sup>

The position in regard to land drainage in this country is rapidly becoming so serious that, despite the initial difficulty of arousing interest in any matter even remotely connected with drains or sewers, public attention is likely to become focused on it at no very distant date.<sup>2</sup>

In the absence of proper drainage, we are warned by the Royal Commission, the land is bound to deteriorate. "The land lies cold, germination fails or is delayed and the period of growth is extended. The health of the community suffers and the rateable value of the land affected seriously decreases. . . . We cannot disguise from ourselves the fact that the permanent deterioration through continuous flooding or waterlogging of large areas of land now in use, involves in any country the loss of a valuable national asset."<sup>3</sup> According to the estimate of the Ministry of Agriculture and Fisheries, 4,362,000 acres of land in England and Wales (about one-seventh of the total area used for agricultural purposes) is dependent for its fertility on arterial drainage. Of this, nearly a million and a half acres are outside any drainage district. The Ministry of Agriculture has stated that at least 1,755,000 acres of land are in immediate need of drainage, of which 1,279,000 acres are said to suffer from flooding occasioned by defective or obstructed arterial channels. These figures do not include land in need of ordinary field drainage, of which there is ■ considerable area.<sup>4</sup> Finally, we have to face the fact that with the splitting up of large estates consequent on the fall in agricultural prices, the serious waterlogging of land may be expected to become even more prevalent, unless adequate

<sup>1</sup> *Report of the Royal Commission on Land Drainage in England and Wales*, Cmd. 2993/1927, p. 20.

<sup>2</sup> This was also written before the passing of the Land Drainage Act, 1930. See note on p. 102.

<sup>3</sup> *Report of the Royal Commission on Land Drainage in England and Wales*, Cmd. 2993/1927, p. 44.

<sup>4</sup> *Ib.*, p. 22.

steps are taken to ensure that drainage operations of an extensive character are carried out efficiently and economically.<sup>1</sup>

The essential key to the whole situation lies in the reorganization of the welter of conflicting and unco-ordinated authorities which have produced the present position. The waterlogging which exists in this country to-day, the Royal Commission insists, is mainly due to "the large number of drainage authorities who are concerned with small areas and who work without any co-operation with their neighbours."<sup>2</sup>

Closely allied with the removal of water from land is the question of the supply of it to the inhabitants. But whereas land drainage is a matter primarily affecting the rural population, the problem of water supply becomes most acute in the great cities.

It is not too much to say that if the local authorities in charge of the health and welfare of the millions of men, women and children massed in our great urban aggregations had not broken through the boundaries imposed on them by tradition, historical accidents and the neglect of Parliament, half the population would die of thirst in a week. A mere glance at the map will show this. The million citizens of Birmingham are largely supplied with water from the rivers Elan and Claerwen in mid-Wales, 70 miles away. Manchester at present draws water from Longden Dale in Cheshire (nearly 15 miles away), and Thirlmere in Cumberland, a distance of 80 miles, while a new scheme has recently been started whereby vast supplies of water in Westmorland will be brought through an aqueduct 74 miles long to the houses and factories of Manchester at a capital cost of some £10 millions.<sup>3</sup> The inhabitants of Liverpool consume water brought from Montgomeryshire, 50 miles away. The water supply of Leeds depends on the river Ure and its tributaries in the West Riding, 30 miles away, that of Birkenhead on the river Alwen in Denbighshire, 35 miles distant. The Derwent Valley Water Board in Derbyshire is ■ great undertaking which sup-

<sup>1</sup> *Report of the Royal Commission on Land Drainage in England and Wales*, Cmd. 2993/1927, p. 21.

<sup>2</sup> *Ib.*, p. 24.

<sup>3</sup> *The Times*, May 30th, 1929.



plies water to the three towns of Derby (35 miles away), Nottingham (40 miles) and Leicester (60 miles).<sup>1</sup>

With the great industrial centres consuming enormous quantities of water for domestic and business purposes, it is obvious that the present areas of local government are utterly unsuitable for this most vital service. The position is serious, not only because the more readily accessible sources of water supply have been appropriated, but because improved housing conditions, and in particular the provision of baths and a hot-water supply in working-class dwellings, now becoming for the first time a common practice, has more than doubled the daily consumption of water per head.<sup>2</sup> The Advisory Committee on Water of the Ministry of Health is of the opinion, not only that the position is serious, but also that if the remaining sources of supply are to be made available at a reasonable cost and expensive conflicts avoided, more systematic foresight is required than hitherto. Hence the urge for the setting up of advisory water committees covering large areas. There are various districts at present, the Committee reports, "where the question of future sources of water is a matter demanding serious consideration."

The present situation does not appear in a more favourable light if we turn to the countryside. In a vast number of areas the smaller rural authorities have been either unwilling or unable to provide anything in the way of a water supply to the dwelling-houses of the local population. It was officially stated by the Minister of Health in 1944 that about 2,000,000 persons, representing 30 per cent. of the rural population, have not piped supplies either in their houses or within easy reach. They are entirely dependent on wells and springs, which are continually exposed to the risk of pollution. The results of an official memorandum,<sup>3</sup> exhorting the rural authorities to bring about

<sup>1</sup> Cf. *Yearbook of the British Waterworks Association* 1928, passim.

<sup>2</sup> *Regional Water Committees* 1928, p. 3 (H.M. Stationery Office). Issued with the approval of the Advisory Committee on Water.

<sup>3</sup> The memorandum is no longer available for purchase. It was set out fully in Circular No. 51 of the British Waterworks Association for June, 1924, and also in the *Journal of the Institute of Municipal and County Engineers* for August 26th, 1924. Cf. *Official Gazette of County Councils Association*, August 1924.



an improvement in the water supply of the rural parishes, was ruefully declared by the Ministry's Advisory Committee on Water, after five years' waiting and watching, to have been "somewhat disappointing."<sup>1</sup>

Closely related to the question of water supply is the problem of keeping the rivers of the country free from pollution likely to interfere with the health of the community, the amenities of a particular locality, or the sacred rights of anglers. There is in existence a series of legislative provisions known as the Rivers Pollution Prevention Acts, which are directed towards the abatement of pollution in the public interest, and the Salmon and Freshwater Fisheries Act, which has in view the same object in the special interest of fisheries. The power of enforcing the former measures is vested in all town councils, urban and rural district councils, county councils, and Joint Committees set up for certain rivers such as the Ribble, the Mersey and the Irwell. The Upper Thames and the Lee, which supply the Metropolis with water, are controlled by Conservancy boards possessing special powers.

There is no lack of administrative authority for enforcing the law; and the law itself gives more than adequate power to achieve the purposes in view. Nevertheless, the condition of the rivers has been growing steadily worse, and the activities of the local bodies charged with maintaining their purity increasingly ineffective.

It is admitted on all hands, the Committee pointed out, "that many of our rivers are seriously polluted and that the law designed to prevent avoidable contamination is to a large extent not put into operation."<sup>2</sup> This state of affairs, they found, is chiefly due to each authority being too small and mainly limited to its own area. "The evidence we have received," the Report continues, "certainly goes to show that for the prevention of pollution a body . . . acting throughout the whole or the

<sup>1</sup> Ministry of Health: Advisory Committee on Water: *Report on Rural Water Supplies* 1929, p. 5. See White Paper on Water, 1944. Hansard, Commons, 21 Feb., 1945. Cols. 815-838. Water Act, 1945.

<sup>2</sup> *Report of Joint Advisory Committee on River Pollution* 1928, pp. 6-7.

greater part of a river basin is far more effective than a body operating in a limited area.”<sup>1</sup> To say this is to condemn the present division of areas, which bears no relation to rivers or any other natural features. A county has merely a conventional boundary, remarked Lord Robert Montagu in his dissenting Report of the Royal Sanitary Commission of 1869. “These boundaries had their origin in a mere accident, many centuries ago; while the boundary of a watershed is as old as the flood, and consists in the nature of things.”<sup>2</sup>

Land drainage is one of the oldest functions of local government: electricity supply is one of the newest. Yet the existing structure of municipal administration is as unsuited to the latter as to the former.

Something like two-thirds of the electricity supply industry is in the hands of the municipal authorities of the country. The turnover on this large share of the industry amounts to more than £30 millions a year, and the aggregate capital expenditure by these public bodies was in 1937-8 almost £330 millions.<sup>3</sup> A very large part of the capital indebtedness has already been paid back out of revenue. Not only does the community own and manage the major share of this essential public utility, but it can definitely be said that the municipal part of the industry includes some of the most efficient generating stations in the country, such as the vast city undertakings at Glasgow, Manchester, Birmingham and Liverpool.

Yet despite these favourable “high spots,” the position is far from satisfactory. There are no less than 350 local authorities in Great Britain supplying electrical power to their inhabitants, including a large number of urban districts, rural districts, small towns and metropolitan boroughs.<sup>4</sup> All these undertakings no doubt appear entirely adequate and self-sufficient in the eyes of

<sup>1</sup> Loc. cit.

<sup>2</sup> *Second Report of the Royal Sanitary Commission*, vol. ii (281-I/1871, p. 339).

<sup>3</sup> See the return of the Electricity Commissioners for 1937-8.

<sup>4</sup> Details are given in the Memorandum issued by the Incorporated Municipal Electrical Association entitled “The Contribution of Local Authorities to the Development of the Electricity Supply Industry.”

their local councils. But to the larger vision of the more imaginative type of engineer they seem ludicrously incompetent to undertake the highly important work of providing the community with the newest and most necessary form of power.

In their First Annual Report the Central Electricity Board laid stress on the facts which have been emphasized above. "The admitted economies and other advantages of large-scale production of electricity," they observed, "have not hitherto been attained in Great Britain, apart from a few notable exceptions, because of the inherent difficulties of a situation which is the outcome of a strong tendency to relate the generation of electricity to local government areas."<sup>1</sup> Within a year of the establishment of the Central Electricity Board as an executive body the Electricity Commissioners had prepared five great schemes for creating a like number of vast electrical generating areas, comprising nearly forty thousand square miles of territory, three-quarters of the whole population of Great Britain, and four-fifths of all the electricity consumed within the country. The scheme for South-East England alone took in more than eleven million persons and nearly nine thousand square miles of territory, including London, the counties of Kent, Sussex, Essex, Hertfordshire, Middlesex, Cambridgeshire, Huntingdonshire, Bedfordshire and parts of Berkshire and Buckinghamshire. No less than 165 "authorized undertakers" of electrical supply were affected by this one scheme alone—a significant indication of the small scale of operations previously existing. All these schemes were adopted by the Central Electricity Board, and were put into operation without delay.<sup>2</sup> The gross savings to the undertakers which will be effected by these schemes amount to many millions of pounds.

All these far-reaching changes dealt with the unification and development of the generation and distribution in bulk of electrical energy. The distribution in detail was left untouched in the hands of the authorized undertakers, municipal and

<sup>1</sup> *First Annual Report of the Central Electricity Board* 1929, p. 1.

<sup>2</sup> *Ib.*, p. 6.



company. A Bill is now before Parliament to set up ■ new Central Electricity Authority and 14 Area Boards covering large regions. These Boards will take over the property, rights and functions of both the municipal and company undertakings and will be responsible for distribution.

Not all municipal functions have been dealt with so boldly, nor the obsolete boundaries and prejudices of local authorities overridden with so firm ■ hand, as was done in the case of electrical generation. This was brought about to no small extent by the efforts of the great industrialists, engineers and captains of commerce, who had no intention of seeing their economic opportunities diminished and potential profits decreased by remote and (as it seemed to them) irrelevant considerations of local patriotism and county pride. Usually the local zealots have had their way. In London, in particular, no strong hand has ever dared to mould into a coherent unity the fantasy of areas and authorities which make up the patchwork quilt we are pleased to call the government of London.<sup>1</sup>

The largest authority responsible for the municipal affairs of the capital city of the Empire is the London County Council. Within the area of that body are 28 Metropolitan Borough Councils. The heart does not belong to the body, but is under the separate jurisdiction of the Corporation of the City of London. Outside the L.C.C. area, but within the confines of Greater London, are 5 county councils, 3 county borough councils, 8 town councils, 64 urban districts and 12 rural districts. The total number of separate councils is thus 122, without taking into consideration special authorities such as the Port of London Authority or the Lee Conservancy Board.

Never was the evil maxim divide and misrule more ruthlessly applied, nor with more dire results. The London County Council is not a dominant and comprehensive body responsible in any adequate sense for even the major services required by the denizens of the vast aggregation of slums and mansions,

<sup>1</sup> See W. A. Robson: *The Government and Misgovernment of London*, *passim*.

palaces and dormitories, parks and workhouses, offices and factories, warehouses and docks, which goes by the name of London. The City Corporation has the Lord Mayor and the ceremonial traditions, the annual banquet and the trappings of tinsel and gold—to say nothing of the enormous wealth of the Square Mile. The Home Secretary controls the Police Forces of the Metropolis outside the City area. The Metropolitan Water Board, the Port of London Authority, the Metropolitan Borough Councils, the London Passenger Transport Board and the Traffic Advisory Committee, all take unto themselves specified functions of government. And everywhere around the borders of the London County Council's area, pointing sly fingers at the absurd frontier of its boundaries, are borough councils and county borough councils, district councils and county councils. All these separate municipal entities, in London but not of it, conspire to derogate from the prestige and status of the London County Council, and prevent it from administering services over an area which corresponds with the realities of London life, is adequate in size, and calculated to produce the most satisfactory results.

Small wonder, in view of all this, if the representatives of the London County Council, in giving evidence before the Ullswater Commission on London Government, complained bitterly of the unsatisfactory nature of the existing area. The present territory, they declared, is entirely unsuitable to the modern requirements of local government, particularly in regard to such services as education, electricity supply, housing, transport and the regulation of wholesale markets.<sup>1</sup> In support of this, the witnesses for the London County Council pointed out that the limits of the present area had actually been disregarded, both by the London County Council and other authorities, as well as by Parliament itself, in regard to nearly a score of major services. The logic of events had compelled Parliament, the government and the local authorities concerned to transgress the county frontier in respect of the provision of allotments and small-

<sup>1</sup> *Royal Commission on London Government*, Cmd. 1830/1923, p. 7.



holdings, parks and open spaces, housing, sanitation and other public health services, the police forces and fire brigades, water supply and tramways.

The representatives of the London County Council showed that it was often necessary to look outside the county for suitable land for parks and open spaces. In regard to sanitation, no less than thirteen areas had been admitted to the main drainage system of London, and it had now become impossible to deal with this aspect of the situation without knowledge of the whole area. In the field of public health, a single scheme for the diagnosis and treatment of venereal disease had been brought into operation over a large territory comprising the whole area of the London County Council together with the areas of six adjoining counties and three neighbouring county boroughs. As regards tramways, agreements had been made between the London County Council and various out-county authorities and companies for through-running facilities. The Metropolitan Police District, under the jurisdiction of the Commissioner of Police for the Metropolis, is an area much larger than the administrative county. So, too, is the area of the Metropolitan Water Board. It had, indeed, been necessary to place the water supply in the hands of a special body for the very reason that no municipal authority exists with jurisdiction over an appropriate area.<sup>1</sup>

Worst of all is the situation in regard to housing. The London County Council has been forced, by the inadequacy of its own area, to develop large building estates outside the county boundaries at Becontree, Norbury and Tottenham. "Under our system of local government to-day," observes Sir Oscar Warburg, the vice-chairman of the Council, "the London County Council, when it does undertake building in another county, is merely a landlord who is building a housing estate in that county, and it falls to the local authorities to provide all the necessary services which are required in connection with the population being housed. The county, therefore, has to provide education, the

<sup>1</sup> *Royal Commission on London Government*, Cmd. 1830/1923, p. 9.



local drainage authorities have to provide for the drainage of this large number of houses which have been dumped into their midst, and hospitals have to be provided in connection with the development of that estate. Every one of the matters which I have mentioned has presented considerable difficulty.”<sup>1</sup>

All these facts, and many others of a similar nature which could be adduced, do not appear to indicate that the present structure is, as the Royal Commission on London Government optimistically declared in the opening pages of their First Report, “flexible and responsive to the facts of growth and change.”<sup>2</sup> They seem to show, on the contrary, that the existing system—if it can be called a system—is seriously out of consonance with modern social needs; and that in the case of a number of services it is so impossible to carry on administration within the framework of the existing divisions without grave danger to the public weal that the formal structure has in effect been superseded by special arrangements designed to remedy particular difficulties. To regard administrative machinery as “flexible and responsive to the facts of growth and change,” when that machinery prevents efficient or effective service being rendered to the community in half a dozen of the major fields of local government, or is virtually obliterated whenever the rising tide of municipal development sweeps across it, is a misuse not only of language but of the processes of thought.

### THE WEAKNESS OF THE SMALL AUTHORITIES

It will be clear from what has already been said that one of the most obvious weaknesses in the existing structure is the large number of small authorities who lack either the means or the will to carry out the functions with which they have been entrusted.

The number of local authorities with very small populations is considerable. In the case of urban authorities this may be

<sup>1</sup> Sir Oscar Warburg: *Some Problems of London Government To-day*: VII—Public Administration, No. 1, January, 1929, p. 22.

<sup>2</sup> *R.C.L.G.*, p. 14. See p. 124, *post*.

traced partly to the fact that in the years 1862 and 1863 the inhabitants of a large number of quite small places (some with a population of less than ■ hundred persons) adopted the urban form of local government<sup>1</sup> under the provisions of the Local Government Act, 1858, in order to avoid the inclusion of their parishes in Highway Districts formed under the Highway Act of 1862. In many important counties, local administration has still to be conducted within urban areas originally delimited, in 1862-3. In the West Riding of Yorkshire, for example, 22 urban districts in the county were formed in those two years, 14 of them having populations in 1921 of less than 5,000 inhabitants each. Of these 14, 3 had populations below 1,000, and 6 between 1,000 and 2,000 persons.<sup>2</sup> Many of the places concerned were evidently small villages. The House of Commons was told in 1863 that the Act of 1858 had been adopted in 22 districts with populations of less than 100, and in 130 districts with populations between 100 and 500.<sup>3</sup>

Even after the passing of the Local Government Act of 1888 the situation continued to be aggravated. During the forty years which elapsed between the passing of that statute, which established the county councils, and April, 1927, no less than 183 urban districts and 71 rural districts were formed having populations below 5,000 inhabitants at the time of formation.<sup>4</sup> Some of the small rural districts resulted from the sub-division

<sup>1</sup> The motives which led to this action were notorious. They were characterized as follows by ■ official witness before the Royal Sanitary Commission of 1869-71: "The nature of the reluctance to adopt sanitary law as such, is not ill-illustrated by instances in which that reluctance has given way before ■ still greater indisposition to come under other legislation of not absolutely compulsory character. Thus, when the General Highway Act of 1862, for the formation of highway districts, came into operation, scores of places . . . not intending to do anything under the Local Government Act of a sanitary kind, nevertheless adopted that Act in order to retain the management of their highways and to escape the operation of the General Highway Act. So widespread was this disposition to avoid the fair incidence, each in its proper sphere of action, of the two Acts (which the legislature had virtually left parties at liberty to choose between) that it was found necessary in the Local Government Act 1863 to make provision against like abuse in future." *Royal Sanitary Commission Second Report*, vol. ii: Analysis of Evidence (C. 281-I/1871, p. 185).

<sup>2</sup> *R.C.L.G.*, pp. 7-8.

<sup>3</sup> 169 *Hansard*, 3s., col. 1981, March 26th, 1863.

<sup>4</sup> 2 *R.C.L.G.*, p. ■.



of an existing district to comply with the requirements of the Local Government Act of 1894, which aimed at ensuring that the whole of a rural district should lie within the confines of a single county.

We find at the present time that there are approximately 250 county districts with populations below the 5,000 mark and 550 with less than 10,000 population. The financial capacity of most of these small areas is, as we might expect, very restricted. In the case of 660 of them, the levy of a rate of a penny in the £ produces less than £250—scarcely a princely revenue for the costly services of to-day. No mention has been made, in the figures given above, of the 11,100 parishes which boast a parish council or parish meeting. The microscopic activities of these inheritors of an ancient tradition involve an average general expenditure of £31 on the part of each parish council or meeting, an annual capital expenditure averaging less than £3, and an average revenue from rates of approximately £21.<sup>1</sup>

It is obvious that the historical accidents which have led to the formation of this horde of tiny local councils have scarcely any connection with the factors which are conducive to good municipal government at the present time. There are no *a priori* reasons for cherishing a predilection in favour either of big units or of small units of administration; but viewing the phenomena in an impartial light it is impossible not to realize that these hundreds of Lilliputian county districts which struggle sans population, sans money, sans knowledge, often sans staff, to maintain their position in the local government structure, are fighting against insuperable difficulties.

The Desborough Committee on the Police Service, which sat in 1920, found as many as 48 police forces containing 25 men or less, and a further 40 forces with a strength of between 25 and 50 men, making a total of 88 forces containing fewer than 50 men each. The borough of Tiverton mustered a force consisting of a chief constable, 2 sergeants and 8 constables—11 men in all. The borough of Louth was protected against riot

<sup>1</sup> *Annual Local Taxation Returns 1924-5*, Part III, 1927. Table XII, p. 58.



and civil commotion, murder, robbery with violence, and arsenical poisoning with a force of similar size. Two of the counties returned a strength of eight men each, including the chief constable and subordinate officers. Confronted with small troupes of constabulary such as these, it is scarcely a matter for surprise that the Committee, while recognizing the numerous advantages of a local police organization, should have observed that "there must obviously be a point beyond which the multiplication of separate forces is bound to prejudice the efficiency of police work and administration."<sup>1</sup>

The small boroughs fought hard to justify their independent forces. A borough could be policed more efficiently, they urged, by men having the intimate knowledge of local conditions which is possible only in small units. There is less danger of corruption in small forces than in large, they alleged, for more serious abuses occur in the larger city and borough forces than in those of small size. In an emergency, the chief constable would have the support and advice of the Borough Watch Committee, an advantage not open to a delocalized force.

Those who wished to abolish the very small police forces denied that the larger forces lend themselves more easily to corruption. They even argued that in a larger area there is actually less risk of the discipline and work of the constabulary being affected by undue influence and personal questions. But their main contentions were that the abolition of the small forces would effect a saving in expense, particularly in respect of buildings and administrative charges; and that it would lead to a gain in efficiency, due to improved facilities for recruitment and training, and the wider opportunities for experience open to police officers in larger areas. Moreover, the larger police forces offer better chances of promotion and transference, and hence produce a more contented spirit among the rank and file.

These arguments, and the evidence on which they were based, convinced the Committee. Even before the War of 1914-18,

<sup>1</sup> *Report of Desborough Committee on the Police Service*, Part II, Cmd. 574/1920, p. 5.

the Kempe Committee on Local Taxation had recommended the absorption of the small police forces in larger county units, on the grounds of economy and efficiency of administration.<sup>1</sup> The Desborough Committee were only following in the same footsteps when they declared themselves in favour of larger units of administration. "It is obvious," they stated, "that the existence of the numerous small forces . . . greatly complicates the police administration of the country in many ways: it increases the difficulty of securing the standardization of the conditions of service, training and working methods of the police, to which we attach the greatest possible importance."<sup>2</sup> For these and other reasons the Committee emphatically recommended that the small borough forces should be merged in the county forces.

It is not necessary to sympathize with the strong centralizing tendency of the Desborough Committee, or to endorse the particular remedy proposed by them, in order to agree with their condemnation of the excessively small police forces which litter the countryside. It would be difficult to arrive at any other conclusion after a candid examination of the facts.

A similar conclusion was reached by another official committee concerning an entirely different sphere of municipal activity: namely, the provision of public libraries. An unusually elaborate survey of the municipal provision of reading facilities was made recently by the Public Libraries Committee appointed by Sir Charles Trevelyan when Minister of Education in 1924.

No one studying the report of this committee can fail to be struck by the generous tribute paid to the efforts made by a number of small communities to provide their citizens with good library facilities. Such places as the three Claydon villages in Buckinghamshire, where the stock of volumes numbers respectively 2,293, 1,218 and 642, per 100 of the population, as

<sup>1</sup> *Final Report of the Departmental Committee on Local Taxation*, Cd. 7315/1914, p. 43. The Police Act, 1946, abolished all non-county borough police forces and made the standing joint committee the police authority throughout the administrative county.

<sup>2</sup> *Report of Desborough Committee on the Police Service*, Part II, Cmd. 574/1920, p. 5.



against an average for the whole country of 52, were singled out for unstinted praise; and the statistical completeness of the Committee's survey enabled them to ascertain with unusual precision the quantitative superiority of the achievements of certain small areas.<sup>1</sup> The Committee could thus say with some truth that, whatever curtailment of the independence of small areas their recommendations might involve, they were not made without a full recognition of the praiseworthy efforts made by some of these communities to provide themselves with libraries.

The value attaching to self-determination by a community of any size, continued the Committee, is a factor not to be forgotten. But it is clear that there comes a point where economic factors become so strong that they defeat the efforts of any community to provide itself with an efficient library. The statistics show "a multitude of areas in which an attempt has been made to provide a library, but the attempt has clearly failed, and the library is in a derelict condition."<sup>2</sup>

A community of 5,000 may include readers with as great a variety of tastes as a community of 500,000, and the former will in consequence require access to as wide a range of books as the latter. It is sometimes said that a small library can still be a good library. It can, if it is organized with a specific and limited purpose for a particular group of people whose needs can be definitely formulated. But for a public composed of general readers with a variety of wants, and a variety of other readers with special wants, it is certain that no small library can provide an adequate service. The statistics show with dispassionate and merciless severity that there is and must be a much greater choice of books for readers in the large towns than in the small, whatever may be the efforts made by the small towns and however high a rate they are willing to raise.<sup>3</sup> Although there are good libraries in areas with a population

<sup>1</sup> They noted, for example, that out of the 13 areas in which library expenditure exceeds 1s. 6d. per head, four contain populations of less than 5,000 each. *Report of Public Libraries Committee*, Cmd. 2868/1927, p. 31.

<sup>2</sup> *Ib.*, p. 32.

<sup>3</sup> *Ib.*, p. 31.



between 10,000-20,000, even this group must be regarded as one in which "economic factors tend to be too strong to permit of the maintenance of an efficient library service."<sup>1</sup>

The most outstanding example of the weakness of small areas is to be found, however, in the realm of public health. Sir W. Arthur Robinson, the Secretary to the Ministry of Health, laid before the Royal Commission on Local Government a mass of evidence concerning the insanitary conditions prevailing in a number of small areas which show the local authorities in charge of such districts to be entirely unfit to be entrusted with responsibility for the health of the community.

The data submitted had reference to 35 small boroughs and urban districts and 37 rural districts. This total of 72 areas may be regarded as a representative cross-section of the lower levels among the county districts. The evidence was drawn exclusively from the annual reports of the local medical officers of health for 1925. In that year Survey Reports were called for to deal comprehensively with the measure of progress made in the area during the preceding five years in the improvement of the public health; the extent and character of the changes made during that period in the local health services; and any further action contemplated by the local authority or considered desirable by the medical officer of health.

It is impractical to reproduce here the detailed analysis given *seriatim* in respect of each of the seventy-odd districts dealt with in the evidence. Nor is it necessary to do so. It will suffice to say that the standard of elementary sanitation laid down by the Royal Sanitary Commission of 1869 as sufficient to satisfy the "ordinary requirements for the general community" appears wildly Utopian compared with the mediaeval conditions prevailing in numerous areas throughout Great Britain. Up and down the country we find conditions so insanitary that judged even by the obsolete conceptions of last century they appear intolerable.<sup>2</sup>

<sup>1</sup> *Report of the Public Libraries Committee*, Cmd. 2868/1927, p. 204.

<sup>2</sup> *R.C.L.G.; Evidence*: Robinson (IX, p. 1717 *et seq.*).

In one district the Medical Officer reports that the people are dependent on pumps or wells and on rain for their water supply, and that during a spell of dry weather this supply does not meet the demand. The only drainage consists of natural drains, which are often blocked, and in dry weather "the stench arising from the untrapped gullies and some of the watercourses is appalling."<sup>1</sup> In a "health resort" attracting numerous visitors from the large towns the refuse from the town drains into large crevasses in the rock on which the town is built.<sup>2</sup> In another urban district the Medical Officer reports that there is no system of drainage or sewerage in existence whatsoever. The disposal of filth is left to the individual house-occupiers, who habitually empty the contents of their lavatories into cesspools situated at the back of the houses, in dangerous proximity to private wells.<sup>3</sup> In another place the river running through the town is contaminated by the town's sewage, which is often forced back through the traps and left on the road.<sup>4</sup> Elsewhere, the Medical Officers reports that the so-called river which runs through the town is a running stream during wet weather and a series of stagnant pools during dry weather. It receives the bulk of the liquid sewage of the town, with the result that it constitutes a nuisance and a menace to the health of the town. The town has therefore to put up with "a state of sanitation which might have been tolerable in mediaeval times, but which is woefully unsuited to modern requirements."<sup>5</sup> In several places the water is stated to be entirely unfit for human consumption,<sup>6</sup> deficient in quantity and a danger to the public health.<sup>7</sup> A case is given of an urban district in which there are no public sewers or sewage works. Large open gutters take a great proportion of the waste water to open ditches and thence to the river.<sup>8</sup> In another, the

<sup>1</sup> District No. 1, *R.C.L.G.*: IX, pp. 1719-20.

<sup>2</sup> District No. 2, pp. 1719-20.

<sup>3</sup> Urban District No. 3, pp. 1719-20.

<sup>4</sup> Urban District No. 4, p. 1721.

<sup>5</sup> Urban District No. 9, p. 1722.

<sup>6</sup> Urban District No. 13, p. 1723.

<sup>7</sup> Rural District No. 12, p. 1734.

<sup>8</sup> Urban District No. 18, p. 1724.

local brook is polluted by an adjacent refuse tip and by drainage from houses not connected with the main sewers. The brook is the only stream of consequence in the vicinity and therefore has "a tremendous and very natural attraction for children, who constantly play in it and around it."<sup>1</sup>

It is scarcely necessary to multiply these illustrations of deplorable sanitary conditions. They are all based on first-hand information provided by responsible officers employed by the local councils. They all refer to areas with small populations and low rateable value.

The Sanitary Commission of 1869 had defined the "ordinary requirements for the general community" as consisting of about a dozen items, such as a wholesome and sufficient water supply, the prevention of water pollution, sewers and sewerage; the regulation of streets and new buildings, the maintenance of healthy conditions in dwellings, the removal of nuisances and refuse, the abatement of smoke, the inspection of food, the prevention of disease and the issuing of regulations in case of epidemics, the burial of the dead without injury to the living, the registration of deaths and sickness, the regulation of markets and the lighting of towns.<sup>2</sup>

This list was not intended to be exhaustive even when it was compiled three-quarters of a century ago; and it has, of course, become progressively more incomplete with the constant expansion of public health functions. But if attention be limited to those elementary health services enumerated by the Commission of 1871 as the minimum which ought then to have been available to the inhabitants of every local government area, it is clear, as the chief official of the Ministry of Health remarked, that the minimum standard of 1871 is still "very far from being universally attained."<sup>3</sup>

The law, it may be noted, gives ample power to the Minister of Health to compel defaulting local authorities to put their houses in order. The Public Health Act of 1875 provided that

<sup>1</sup> Urban District No. 23, p. 1725.

<sup>2</sup> *Second Report of the Royal Sanitary Commission*, vol i (C. 281/1861, p. 20).

<sup>3</sup> *R.C.L.G.; Evidence: Robinson* (IX, p. 1717).



if complaint were made to the Minister that a local authority has made default in providing their district with sufficient sewers, or in maintaining existing sewers, or has failed to provide a proper supply of water with consequent danger to the health of the community, where a proper supply could be got at a reasonable cost, or has made default in enforcing any provisions of the Public Health Act which it is their duty to enforce, then in any of those cases the Minister might make an order limiting the time for the performance of the duty, and this could be enforced by mandamus in the Courts. Alternatively, the Minister might appoint someone to perform the duty and collect the cost from the defaulting authority.<sup>1</sup>

There is, therefore, no lack of statutory authority to enable the Ministry to enforce the provisions of the public health code. But on the Minister's own showing this power is apparently useless and has in fact not been employed in the cases mentioned. The reason is clear. The resources and areas of the small districts are so inadequate that it is literally impossible to compel the performance of the sanitary duties in question. It was this which prompted the Minister to suggest to the Royal Commission a considerable amendment of the present system of public health powers and duties.<sup>2</sup>

It was this evidence more than any other factor which led the Onslow Commission on Local Government, which in 1925 had complacently announced that "the constitution of local authorities may perhaps be regarded as substantially settled,"<sup>3</sup> to express the opinion in 1928, after three years' further deliberation, that the need for a general review of county district areas and parishes had been established. A review of the structure was required, they expressly declared, "in order to see how far ineffective units can be eliminated by reorganization."<sup>4</sup> The question necessarily arises, the Commission admitted, whether

<sup>1</sup> Sect. 299. This Section was replaced by S57 of the Local Government Act, 1929, which enables the Minister to transfer the public health functions of a defaulting district council to the county council.

<sup>2</sup> 2 *R.C.L.G.*, pp. 20-1.

<sup>3</sup> 1 *R.C.L.G.*, p. 11.

<sup>4</sup> 2 *R.C.L.G.*, p. 15.

all the units at present in being are capable of meeting the demands of modern local government, having regard to the diversity and complexity of the services to be administered.<sup>1</sup>

There can be little doubt as to their incapacity. It is impossible to survey the facts of local government as they exist to-day without becoming convinced that there is a great multitude of minor authorities covering areas so inadequate, possessing such small populations, and with so limited financial resources, that, with the best will in the world, they have neither the capacity nor the means to exercise in a satisfactory manner the powers which have been conferred on them by Parliament.

It would be quite incorrect to suggest that they have invariably, or even usually, the best will in the world. The Royal Commission on Land Drainage observed that where drainage authorities had applied to the Ministry of Agriculture for an extension of their jurisdiction to the whole of a catchment basin merely for the purposes of control in the common interest—no financial power was involved—these efforts met with such strenuous opposition on the part of the smaller fry among the urban and rural district councils that every single project had to be abandoned.<sup>2</sup> The Onslow Commission, in recommending an extension of the area of charge for sanitary services in backward districts, was at pains to stress the lack of goodwill which might be encountered in attempting to induce these minor local authorities to accept even the favour of a subsidy from the rest of the county ratepayers.

The effect of the Commission's recommendations, which are now contained in the Local Government Act 1929,<sup>3</sup> are to empower ■ rural district to contribute money towards the cost of providing ■ parish with water supply and sanitation. A similar privilege to assist financially an incompetent county district is given to the county council. Instead of commiserating with the unfortunate ratepayers whose burdens are to be thus increased, without compensating advantage to themselves, by

<sup>1</sup> *Ib.*, p. 29.

<sup>2</sup> *Report of Royal Commission on Land Drainage*, Cmd. 2993/1927, p. 19.

<sup>3</sup> Sects. 56 and 57.

reason of the sins of omission of the weakest areas; instead of attempting to assuage the righteous indignation which might well be expected to burn in the breast of every county resident who, after providing his own district with adequate sanitary services, is calmly asked to pay for similar necessities in backward areas: without wasting a single word of pity on these egg-laying geese, the Commission expounded at length on the "difficulties" attendant on extension of the area of charge from the standpoint of the recipient! Parishes and districts have for so long been financially independent of each other in making provision (or in failing to make provision, one might add) for sanitary services "that the theory of a wider community of interest in this sphere may not readily gain acceptance."<sup>1</sup> In practice, however, the backward parishes and districts will be asked to accept, not a "theory," but a financial contribution from other ratepayers. It will be interesting to see if this fails to "gain acceptance," whatever may happen to the theory!

Although evidence such as this scarcely betokens a spirit of enlightenment or of goodwill on the part of the smallest authorities, the real case against them does not rest on the lack of vision or desire for progress shown by their elected representatives. Even though the local councillors in these areas were able to combine within their persons the wisdom of a Solomon, the inventiveness of a Bentham, and the administrative capacity of a Chadwick, it would still be impossible in most cases for them to accomplish anything of importance without drastic change in the present division of areas and the existing distribution of resources. The shortcomings of the small areas are due to inherent defects in the municipal structure itself.

### THE NEED FOR LARGER AREAS

The criticism levelled at the smaller authorities can be seen in its true perspective if we look for a moment at the tendencies manifested during recent years not only in local government but in most other spheres of administration. Everywhere we find

<sup>1</sup> 2 *R.C.L.G.*, p. 26.



indications of the growing necessity for areas of organization larger than those at present existing, if maximum efficiency is to be obtained. The amalgamation of the railways, the joint stock-banks, the newspapers, the chemical industry and many other privately owned undertakings into vast combines; the widespread recognition, by capitalists and socialists alike, of the desirability of welding the thirteen hundred separate coalmines in Great Britain into a coherent unity for commercial purposes; the regulation on an international scale of labour conditions, of certain factors required for financial stability and many other fundamental elements in our civilization, all betoken a universal tendency, welcomed for different reasons by persons holding diametrically opposed social and political opinions, in the direction of enlarged units of administration.

The nature of local government has changed very considerably during the past twenty years, and just as the technique of industrial and commercial administration now requires far larger units of authority than formerly, so does the technique of efficient municipal administration now demand more extensive units of local government.

In regard to town-planning, for example, it has for long been obvious that the present disposition and future requirements of very large areas would have to be considered if good results were to be obtained. Thus, the Manchester City Council, in preparing a town-planning scheme in 1918-19, found continual consultation with five contiguous authorities an indispensable necessity. It was useless to settle the line to be taken by the main roads leading out of Manchester unless the necessary connections with those roads were certain to be made by other authorities outside the city boundaries. Again, the future character of a district near the boundary could obviously not be settled without reference to the future development of land across the boundary.<sup>1</sup> It was clear from these and similar facts that some machinery for constant consultation was urgently called for, and that the work of each local authority would be

<sup>1</sup> E. D. Simon: *A City Council from Within*, p. 207.

helped by a town-planning body for the whole region. Hence there came into existence the Manchester Joint Planning Committee. This Committee, which comprises 96 local authorities, has jurisdiction over an area of 1,000 square miles. Its main duties are to advise in the promotion, co-ordination and linking up of town-planning schemes within the area and to prepare plans in respect thereof.

The example of South-East Lancashire has been widely followed throughout the country; and town-planning is now generally recognized as a service which can only be conducted over large areas.

The Manchester district was also a pioneer in regard to electrical generation. In 1923 an Advisory Board was set up to work out and put into operation an interconnection scheme for the supply of electricity to South-East Lancashire. The Board is now at work, and it is believed that a saving of £100,000 a year will be effected by the improved efficiency and economy of administration.<sup>1</sup> It has thus been found by experience, we learn from Simon of Wythenshawe, formerly Lord Mayor of Manchester, that even the 21,690-acre area of that city is far too small for the effective organization of certain local government services. Lord Simon goes on to point out that smoke abatement, a function of immense importance amid the grime and filth of Lancashire, will only be dealt with properly when uniform legislation and uniform administration are made to prevail over the whole area. "It is felt," he concludes, "that this is a matter which can only be dealt with by a joint board."<sup>2</sup>

It is not only in the densely populated cities of the industrial North that the need for large-scale effort in these and other fields has been felt. "The whole trend of the development of electricity supply during the past thirty years," we are told by a distinguished member of the Electricity Commission, "has been away from the parochial conceptions of 1882. This is emphatically true as regards generation, and is evidenced by the coming

<sup>1</sup> *Ib.*, p. 216.

<sup>2</sup> *Ib.*, p. 225.

into being of the great power companies with their powers over wide areas, by the schemes for joint electricity authorities . . . and finally by the creation of the Central Electricity Board under the Act of 1926.”<sup>1</sup> The tendency is less marked in regard to distribution, but has recently come into prominence, particularly in regard to the development of the rural areas.

The spheres of municipal activity in which there is need for enterprise on a scale larger than that which is possible when local authorities act separately within their present areas, are too numerous to mention in any detail. The development of scientific methods of sewage disposal, for example, has led to the growth of nearly 250 specially constituted authorities, such as Sewerage Boards and Committees, with wide areas fitted to the needs of the several local authorities.<sup>2</sup> A whole series of Royal Commissions and Departmental Committees have recommended the formation of River Boards for such purposes as the prevention of pollution, land drainage, the conservation and utilization of water power and the protection of fisheries.<sup>3</sup> In regard to water supply, regional advisory water committees already exist in certain parts of the country, and their formation elsewhere is vigorously urged by the Ministry of Health. The Land Drainage Act 1930 contemplates a number of Catchment Area Authorities not unlike the River Boards previously mentioned. No town should have a separate police force, according to the Desborough Committee,<sup>4</sup> unless it has a population of at least 100,000 inhabitants.

A similar tendency is revealed in much of the legislation affecting municipal affairs which has been passed during the last

<sup>1</sup> Sir Harry E. Haward: *Municipal Electricity*: VI—Public Administration, p. 50.

<sup>2</sup> *I R.C.L.G.*, p. 424.

<sup>3</sup> Cf. *Rivers Pollution Commission* 1868, *First Report*, p. 136, Sect. 8; *Report from the Select Committee of the House of Lords on Conservancy Boards, etc.*, 1877; *Royal Commission on Sewage Disposal* 1898, *Third Report* (Part II), p. xxxvii, Sect. 62; *Royal Commission on Salmon Fisheries* 1900 (Part I), p. 63, Sect. 3; *Water Power Resources Committee* 1921, *Final Report*, p. 82, Sect. 309; *Royal Commission on Land Drainage* 1927, p. 24, Sect. 63; *Report of Joint Advisory Committee on River Pollution* 1928, p. 5.

<sup>4</sup> *Report of the Desborough Committee on the Police Service*, Part II, Cmd. 574/1920, p. 5.



twenty or thirty years. By the substitution of the county councils as education authorities for much of the country in place of the great number of school boards previously existing, the Education Act of 1908 took a definite step towards the inception of larger and fewer authorities, particularly in the rural districts. The Education Act of 1944 continued the process by eliminating county districts as education authorities for elementary education. A like movement in the direction of larger units was shown in 1911, when the National Health Insurance scheme named the counties and county boroughs as areas for certain aspects of local administration; in 1913, when mental deficiency was placed in the hands of the councils of these same areas; and in 1918, when the councils of counties and county boroughs were chosen as local authorities for the supervision of midwives.<sup>1</sup> In the next year the Public Libraries Act of 1919 followed suit by enabling county councils for the first time to adopt the Public Libraries Acts, thus bringing within ultimate reach of library provision 91 boroughs, 550 urban districts and more than 12,000 parishes which had not previously felt able to undertake on their own account the provision of a library service.<sup>2</sup>

A great number of other instances could be cited to illustrate the irresistible drift towards larger authorities. The Local Government Act, 1929, among other things, transferred the functions of the Boards of Guardians to the county and county borough councils, and made the county councils responsible for nearly the whole of the vast network of secondary roads which had previously been maintained by the county district authorities. There were more than six hundred Poor Law Unions in England and Wales, each with a separate Board of Guardians. There are less than a hundred and fifty county and county borough councils.

The Police Act of 1946 abolished non-county boroughs as police authorities and transferred their powers to the county police authorities. A similar transfer of functions in regard to

<sup>1</sup> Ernest S. Griffith: *Modern Development of City Government*, vol i, p. 392.

<sup>2</sup> *Report of Public Libraries Committee*, Cmd., 2868/1927, p. 34. Public Libraries Act 1919, Sects. 1-3.

public health was effected by the National Health Service Act, 1946; and in regard to town and country planning and fire brigades by other recent legislation.

### THE DANGER OF CENTRALIZATION

Many persons are under the impression that there is something undemocratic and opposed to the true principles of local government in enlarging the areas of municipal administration. This is a misconception. Local government is not menaced merely by enlarging the unit of jurisdiction. If our ideas of what constitutes a locality become larger, as they in fact have within living memory, it is a "natural" consequence for the units of government to increase in size to a corresponding extent. The essential core of local government, the vitalizing force which informs all its most excellent manifestations, is the sense of community existing between a body of citizens and the association of that sense with a given territory in which they dwell and work. With the improved methods of communication now available, with the introduction, as a commonplace in daily life, of train, bicycle, motor-bus, tramcar and motor-car, together with such devices as the telephone, telegraph and radio, the area of local consciousness has been enlarged and is even now increasing in size. It would be strange indeed if this enlargement of the mental and material horizon of a society were not communicated, or capable of communication, to the institutional framework of local government.

If anyone doubts this, let him ask whether the intensity of national patriotism is affected by the territorial size of the country with which it is associated. Is there less patriotism, true or false, in the United States of America, than in Bulgaria or Sweden? Does national feeling flourish more feebly in Germany than in Denmark, where it is related to a smaller area of land? Obviously there is no necessary connection between the intensity of local feeling, whether national or municipal, and the size of the area with which that feeling is associated.

There is a huge variation in the size of the territorial units



to which people are at present attached by ties of feeling which seem to them immutable: the sentiment-evoking area may be a village, a great city, a vast province, a river, a mountain chain, a state, an empire. New areas of consciousness are germinating at this very moment. A United Nations patriotism may perhaps become a commonplace to future generations. The English taxpayer is actually spending public money on certain bodies, which, for apparently economic purposes, are engaged directly or indirectly in creating an awareness of, and loyalty to, the more distant parts of the British Empire.

All this may or may not be for the good of mankind. But it certainly disposes of the argument that to enlarge the areas of municipal administration is to destroy the roots of local government. Indeed, it might with greater truth be said that the most effective way of sapping the energy of local government would be to permit the chaos and inefficiency resulting from the present structure to continue. One of the most cogent reasons for requiring larger and more appropriate units of local administration is that the present muddle produces a strong tendency to centralization. The unsatisfactory character of the present areas produces a marked disposition on the part of many well-intentioned persons, whenever a critical point is reached in regard to a particular service, to suggest handing it over to the central government. Hence, when reform is seen to be needed at a specific point, many people who dislike incompetence immediately jump to the conclusion that centralized administration is the only alternative to local government. Parochialism, it has been well said, is an excellent thing within its proper sphere. But it can easily become not merely a dangerous foe to the efficient development of public services on modern lines but also the unwitting means to an undesirable centralization of control.<sup>1</sup>

Centralization is, in fact, the danger which threatens local government most seriously at the present time as a result of

<sup>1</sup> The truth of this is demonstrated by the unfortunate trend of events described in the Prologue to the present edition.



the present imperfect alignment of local councils. A good deal of the opposition to the highway reforms embodied in the Local Government Act, 1929, proceeded on the assumption that the proper authority for maintaining the main roads is the Ministry of Transport. It is true that with the growth of long-distance motor traffic the main roads have outgrown, as it were, the individual county and county borough councils which are now responsible for their upkeep. It is also true, however, that it would be an essential mistake to hand over the main roads to the central government, for that would frequently result in labour being provided and material transported by two separate administrative authorities (the central department and the local authority) to adjacent highways in the same area.

Quite apart from this particular case, however, it is broadly true that national government is already far too congested with matters common to the whole country to be made responsible for the detailed management of even the most vital local affairs. Broad questions of policy must indeed be nationally determined and local authorities, whatever their areas, must work within a framework of national control. But in order to lighten the burdens of central government it is desirable to introduce the greatest possible measure of devolution into the detailed conduct of the collective affairs of the community.

All the changes in structure which are advocated in this book are, therefore, directed towards improving the machinery of municipal administration and indicating methods by which local government can play a more comprehensive and satisfactory part in the life of the community than at present. Hence, however unpalatable some of my proposals may be to those who adhere doggedly to the divine right of things as they are, they are at bottom far more conservative of the real strength of local autonomy than the blind resistance to change of every kind displayed by such bodies as the Rural District Councils Association. They at least provide a feasible alternative to centralization as a remedy for present ills.

“Experience has shown the present local government areas to

be so unsatisfactory in regard to electricity and town-planning," writes Lord Simon, concerning the Manchester experiments already recorded, "that separate action has been taken to try to improve matters in those particular cases, without waiting for the over-slow development of any general scheme."<sup>1</sup> Is it not more than possible that an energetic and impatient government, faced with a public intolerant of the periodic crises which occur with increasing frequency in one or other of the main fields of local government, will take "separate action" in regard to that particular function by removing it altogether from the municipal sphere "without waiting for the over-slow development of any general scheme"? Such an eventuality has already been adumbrated recently in influential quarters respecting, among other things, the recruitment of municipal officers, the administration of main roads, the relief of the able-bodied unemployed, the provision of hospital accommodation, the drainage of land, the building of houses, and certain other services.<sup>2</sup>

### DISINTEGRATION OF POWER

In the preceding pages attention has been concentrated on the unsuitability, for various reasons, of many of the areas in the present structure. We may turn now to quite another source of difficulty and trouble: namely, the existence of a number of authorities administering the same or similar services in a single area.

We have become so accustomed to the peculiar framework of English local government that we tend to regard the present "system" as part of the natural order of things expressly ordained by Providence. But in truth it is strange that we should consider it necessary to have, not a single authority responsible for all the services in a given area, but a major authority having jurisdiction throughout the administrative county (in theory at least), and a series of minor authorities responsible

<sup>1</sup> *A City Council from Within*, p. 206.

<sup>2</sup> These words, written in 1930, have a prophetic ring in view of the events described in the Prologue.

frequently for similar or related services in particular parts of the county. Yet this is the state of affairs which actually exists everywhere except in the great cities, where power is concentrated in the county borough council. Elsewhere the functions of government have been subjected to a process of disintegration, and are scattered between the county council on the one hand and a host of independent county district councils on the other. The county district may be a non-county borough, an urban district or a rural district. If the last-named, it will contain parishes which will in turn have organs of government possessing functions of their own. The division of powers and duties between all these overlapping bodies has proceeded in a manner so devoid of plan or principle that it passes the wit of man to discover either order or coherence or utility in the arrangement.

The multiplicity of councils which now exists produces extremely disadvantageous results in many spheres of activity. Thus, it can scarcely be regarded as ideal to have two, three, four or even five unco-ordinated rating authorities in a single area, each with a separate revenue and budget, each possessing independent powers of raising a rate and of borrowing money. Yet that is the state of affairs which has hitherto prevailed. In the field of public health we find an analogous scattering of authority between the major and minor authorities, an arrangement attended by all the disadvantages normally to be expected from chronic disunity of action.<sup>1</sup>

The Poor Law was for long a special instance of overlapping authorities. The case for abolishing the Boards of Guardians, formulated for the first time by the Minority Report of the Poor Law Commission of 1905-9, rested essentially on the irrefragable doctrine that it is wasteful and not conducive to good government to employ more than one local authority in one place to accomplish what is in effect a single task. It was because the Guardians of the poor were providing services for the destitute

<sup>1</sup> This overlapping has been remedied in certain spheres of public health by the National Health Service Act, 1946, which transfers various functions from county districts to county councils.



similar to those which were being provided for self-supporting members of the community by the general local authorities, with consequent waste and inefficiency, that irresistible force was given to the demand for the abolition of the Guardians. What finally led a Conservative government to embody in the Local Government Act of 1929 a reform which in its main outline had first been called for by the Minority Commissioners, and subsequently adopted by the Labour Party, was not sympathy on the part of Mr. Neville Chamberlain, the Minister of Health, with the advanced social theories of those notorious Socialists concerning the break-up of the Poor Law and the assimilation of the pauper class with the solvent members of the community. He was motivated rather by a more pedestrian desire to see a better and fuller use made of the infirmaries, hospitals, sanatoria, asylums, and other institutions maintained by the Guardians of the poor, and a more economical employment of the large funds disposed of by these bodies, than was possible when they existed side by side in the same areas with general authorities dealing with many problems similar to those arising in connection with destitution. When the whole elaborate structure of Poor Law administration was at last abolished in 1929, after more than three centuries of life, scarcely a voice was raised in protest or regret, save by the outraged Guardians themselves, who, like many another in like predicament, could scarcely realize that their own extinction was required for the public good.

The most critical point of danger arising from the overlapping of authorities and the maldistribution of power lay until recently in the field of education.

The Education Act of 1902 abolished the specially elected school boards and divided education into "elementary" and "other than elementary," a classification based chiefly on the administrative and financial considerations then prevailing. The Act provided that the authorities for elementary education should be the councils of boroughs having a population (in 1901) of over 10,000, the councils of urban districts with a population

(again according to the census of 1901) in excess of 20,000, and in all other places the county councils and county borough councils. The councils of counties and county boroughs were in addition to be everywhere the authorities for higher education. The Fisher Act of 1918 aimed at unifying all forms of educational activity within the existing administrative system, but in effect left intact the three systems of elementary, secondary and technical education, though from a strictly legal point of view it preserved the twofold classification of education into elementary and higher. In 1921 a consolidating statute codified the whole machinery of administration.

It was almost inevitable that difficulties of a serious nature should arise after the Education Act of 1902 came into operation, owing to the inherent drawbacks of a system of local government which established in the same area two types of independent authorities, one responsible mainly for elementary education in part of the area, the other responsible for higher education over the whole area and for elementary education in districts not covered by the former.<sup>1</sup>

The distribution of the areas of local authorities responsible for elementary education only among the 61 administrative counties of England and Wales was as follows:—

14 counties contain no autonomous areas					
16	„	„	1	„	area each
10	„	„	2	„	areas each
10	„	„	3	„	areas each

The remaining 11 counties had respectively 4, 5, 6, 7 (two), 8, 9, 12, 13, 16 and 27 autonomous areas. The extreme case was Lancashire, where the area administered by the county council for educational purposes contained 27 separate authorities for elementary education only—19 boroughs and 8 urban districts.

In the great cities the position was simple and straightforward: the county borough council is the sole authority responsible for

<sup>1</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), p. 160.

all grades of education, from the nursery school upwards. But elsewhere the division of authority imperilled the entire fabric of public education. It is impossible, as the Consultative Committee of the Board of Education observed in the celebrated Hadow Report, "to confine the different stages of education within closed compartments, especially when those compartments correspond rather to the conditions imposed by history or by administrative convenience than to the facts of human life and growth."<sup>1</sup>

The word "elementary", in regard to education, was in origin a social rather than an educational category, describing, not a particular stage of education, but the education of a particular class of children,<sup>2</sup> namely, the offspring of the employed wage-earner and other members of the working class. The parents of this class could not afford to send their children to school without state aid and it was therefore thought necessary to use public money to teach the latter the bare minimum of knowledge necessary for existence in a modern community—the three R's, and a little else as possible. The instruction given to children of this class was regarded as something distinct in kind no less than in quantity from the education purchased elsewhere by more wealthy parents for children of similar ages but different social position.

It no doubt seemed natural that the education which was distinguished on social grounds should also be distinguished administratively. Hence the "closed compartments" for the great mass of children who were educated under the national régime. This meant, as a general rule, that the vast majority of children went to elementary schools (maintained by the local authority for elementary education) at the age of 7 and remained there until they left at 14 years old.

This arrangement, we now know, was utterly out of harmony with all the newer knowledge concerning educational methods which is now available. It had everywhere been observed that

<sup>1</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), p. 36.

<sup>2</sup> *Ib.*, p. 97.



during the last two or three years of their attendance at an elementary school the greater number of children either marked time or failed to make the amount of progress which might reasonably be expected. This was due partly to the lowering of the mental atmosphere consequent upon the "creaming-off," at 11 years of age, of the brighter children who are destined for secondary schools. It was also due in part to the fact that the teachers in elementary schools are not properly trained to impart higher education. Another cause is the difficulty of organizing the great majority of schools to deal in a vital and creative way with children whose ages stretch over so long a period of growth as seven years. Most important of all is the fact that a real change in intellectual development has been observed to occur at about the age of 11 years.

It was on account of these and similar phenomena that the Hadow Committee expressed the utmost dissatisfaction with the administrative aspects of the then existing system of national education. In the interests of the children, they pointed out, primary education should be regarded as ending at about the age of 11+. At that age a second stage (for which the term post-primary was suggested) should begin. This stage, which would for many pupils end at 16+, for some at 18 or 19, but for the majority at 14+ or 15+, should be envisaged so far as possible as a single whole. There should be a variety in the types of education supplied within this stage; but they would all be marked by the common characteristic of seeking to provide for the needs of children who are entering and passing through the stage of adolescence.<sup>1</sup>

The question whether a change, not merely in terminology but in educational law and administration was needed to keep pace with the rapid change in educational facts, was regarded by the Committee as an important one calling for the most careful consideration.<sup>2</sup>

The main problem arising from the division of the education

<sup>1</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), p. 71.

<sup>2</sup> *Ib.*, p. 154.

service into closed compartments may briefly be stated as follows. Authorities for elementary education administered only elementary schools. These included, however, a large portion of post-primary schools, in the shape of Central Schools, Senior Schools, Senior Departments and Higher Tops, which the Hadow Committee, in common with many of the witnesses who gave evidence before them, regarded as belonging properly to the secondary grade of education. This miscellaneous collection of post-primary institutions was the outcome of a statutory enactment requiring *all* local education authorities to make express provision for the older or more intelligent children either by way of advanced instruction or practical training.<sup>1</sup> "Will it be possible," the Hadow Report asked, "for the country to acquiesce permanently in the division of part of the secondary grade of education between two separate authorities in the same area, with the result that an authority for elementary education only may start ■ Modern School or Senior Class when neighbouring 'secondary' schools, under the administration of the authority for higher education, are not fully used?"<sup>2</sup>

Witness after witness drew attention to the particular difficulties caused in regard to post-primary education by the existence of two sets of local education authorities. One Director of Education told the Committee that there were no less than 13 authorities for elementary education forming *enclaves* within the area of his county, the result being that the education of the county had to be fitted into 13 systems. To do this, he complained, "was indeed ■ task that almost passed the wit of

<sup>1</sup> Cf. Education Act 1921 (11 & 12 Geo. V, chap. 51), Sect. 20:—

It shall be the duty of the local education authority to exercise their powers under this Part as to make, or otherwise to secure, adequate and suitable provision by means of central schools, central or special classes, or otherwise:

- (i) for including in the curriculum of public elementary schools, at appropriate stages, practical instruction suitable to the ages, abilities and requirements of the children; and
- (ii) for organizing in public elementary schools courses of advanced instruction for the older and more intelligent children in attendance at such schools, including children who stay at such schools beyond the age of fourteen.

<sup>2</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), pp. 163-4.

man.”<sup>1</sup> The Director of Education for another large county area expressed the opinion that the natural development of education would sooner or later compel the country to make up its mind what was to be the administrative unit for all forms of education. It was fast becoming impossible, he explained, to continue the arrangement under which the education of a number of urban areas was administered by two local authorities.<sup>2</sup>

A questionnaire sent to a large number of the headmasters of secondary schools situated in the areas of local authorities for elementary education only, evoked severe criticism as to the adverse effects produced by the establishment of Central Schools. “In the great majority of cases,” the committee recorded, “the headmasters of the Secondary Schools agreed that the new Central Schools established by authorities for elementary education only, were having a prejudicial effect on the numbers and standard of entrants to the Secondary Schools.”<sup>3</sup> Thus, for example, in one town of 30,000 inhabitants, not a single fee-paying pupil from the urban area had applied for admission in September, 1924, to the local Secondary School. In another town, the number of fee-paying pupils from the urban area entering the Secondary School had fallen from 64 in 1921-2 to 19 in 1924-5. This was due to the establishment of a new Central School in the town.<sup>4</sup>

Mr. Salter Davies, then Director of Education for Kent, declared in evidence that the effective organization of children up to the age of 15 + was hampered by various difficulties, some historical and accidental in character. One of the most serious of these was the division of education into three systems—elementary, secondary and technical—each distinguished by its own rules and regulations, and with varying standards of accommodation, equipment, staffing and salaries. The second difficulty, he continued, lay in the prevalence of the system of dual con-

<sup>1</sup> *Ib.*, p. 162.

<sup>2</sup> *Loc. cit.*

<sup>3</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), p. 162.

<sup>4</sup> *Ib.*



trol.<sup>1</sup> Sir Robert Blair, ■ distinguished educationist and formerly education officer to the London County Council, pointed out that with authorities for elementary education and authorities for higher education covering the same geographical areas in the counties; with central schools under the authority for elementary education and secondary schools under the higher education authority; with differences of outlook, both educational and financial, between the different classes of local authority, there was ■ danger that the treatment of the children might be one-sided and incomplete. The way in which the administrative organization has grown up centrally and locally, he observed, is "a hindrance rather than a help to the treatment of the problem as a whole."<sup>2</sup>

The difficulties referred to were found only in those areas where the system of divided authority and dual control existed. The Hadow Committee expressly pointed out that the only instances which had been brought to their notice of friction or lack of co-operation between different authorities in regard to central schools and their contributory schools were those in which the local education authority providing the central schools had powers in respect of elementary education only.<sup>3</sup> No complaint had been received of any ill-effects produced on secondary schools through the establishment of central schools by a county borough or county council having powers for both higher and elementary education. In Carnarvonshire, indeed, the Director of Education explained that the provision of seven central schools by the county council had not adversely affected the nine secondary schools in the county area. Furthermore, while the number of pupils in all the secondary schools in the county had increased during the past decade, the increase had been most noticeable in just those places where secondary schools and central schools were running side by side.<sup>4</sup> The Association

<sup>1</sup> *Ib.*, p. 156.

<sup>2</sup> *Ib.*, p. 155.

<sup>3</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), p. 163.

<sup>4</sup> *Ib.*

of Municipal Corporations expressly declared that no difficulty had been experienced in securing co-operation between county councils and county borough councils in regard to central schools.

From this it will be seen that the very progress made by local authorities responsible only for elementary education in establishing central schools made the dual system impossible. Just as, in the case of the Poor Law, it was the very excellence of the provision made by the more progressive Boards of Guardians which aggravated the inherent evils of the constitutional structure, so in the case of education it was precisely the enterprise and initiative displayed by the more efficient authorities for elementary education only which maximized the disadvantages of the dual administrative machinery. In short, the essential defects of the structure were demonstrated more clearly at the point of maximum effort than where sloth and negligence reigned supreme. It is not too much to say that the pre-1944 system was rendered unworkable by the activities of the energetic and progressive authorities for elementary education rather than by those whose main object was to evade their duties with the minimum effort and expense.

It is scarcely to be wondered at that the report of the Hadow Committee, which is rightly regarded as one of the most constructive and liberal documents of our time, aimed at a thoroughgoing reorganization of the educational administration.

The first possibility which the Committee envisaged was the abolition of all local education authorities for elementary education only and the transference of their powers and duties to the existing local authorities for higher education. This proposal, "though it is simple and logical and would probably effect a great saving in expense, would raise very difficult political issues." The Committee therefore did not see their way to recommend its adoption. This was regrettable because, however unfortunate it may be, almost every far-reaching improvement in municipal government raises "very difficult political issues"; and in the last resort there is little to be gained by refusing to face these issues with a bold front.

The Committee recommended, as an immediate step, increased co-operation between local authorities for elementary education only and those responsible for all stages of education, with the object of securing that, just as representatives of the former already took part in the initiation and administration of secondary schools maintained in their area by the latter, so the county councils should be fully consulted before modern schools or other post-primary provision was developed by an urban district or borough council administering elementary education only. This suggestion would clearly not do more than avoid a few of the most serious disadvantages previously occurring, and could not be regarded as in any way a remedy. The Committee recognized it as nothing more than an "interim arrangement", a first step to be followed by more comprehensive reforms as soon as possible.

The next line of reorganization advocated by the Hadow Committee was of a more fundamental character. They proposed that legislation should be passed transferring to the authorities for higher education the powers and duties of those authorities for elementary education only which administer areas below a certain minimum standard of population. Those authorities concerned with areas attaining the unspecified minimum in question should be vested with full powers in respect of higher education. In this way small authorities for elementary education only, covering restricted areas and commanding small resources, would be abolished; and the remaining authorities would have power to administer education of all grades.<sup>1</sup> A unification of power would thus be effected.

The Committee went on to make certain other important proposals affecting the structure of local government, but these can best be left to be dealt with later. We have here been concerned solely with those parts of the report which discuss the *impasse* arising from the dual character of the pre-1944 machinery for administering education.

<sup>1</sup> *Report of the Consultative Committee on the Education of the Adolescent* (1926), pp. 164-5.



It is almost impossible for anyone to survey with an open mind the state of affairs which existed until recently in education, public health and the other services of which mention has been made in the preceding pages, without being impressed by the chaotic and wasteful design of the structure, and the inefficient and uneconomical results which have obtained from its operation. Nowhere were the defects more self-evident than in the field of education; nowhere were the evils of ■ badly administered service more far-reaching in their consequences, longer in duration, or more difficult to eradicate.

It is over eighty years ago since the Royal Sanitary Commission of 1869 warned the nation that the good administration of public health required that one, and only one, sanitary authority should be responsible for all the health services in each area. That warning was far too long ignored not only in the field of public health but also in regard to education and many other services, where there has been less excuse or historical justification on the one hand, but even more disastrous consequences on the other.

### THE CONFLICT OF TOWN AND COUNTRY

No analysis of the relation between the county council and the smaller areas within the county can be complete unless it takes account of the relation between the county councils on the one hand and the county borough councils, the only other entirely independent municipal unit, on the other. For the attitude of the larger urban districts and boroughs towards the county, and the county's attitude in turn towards them, is immensely influenced by the hope (or the fear, as the case may be) that one day they will be sufficiently large and powerful and important to attain county borough status, and in that way become entirely free from the jurisdiction of the county council and immune from obligation to contribute to the county revenue.

Of vital importance, therefore, are certain questions which arise in connection with the great city areas of the administrative counties.

For two and a half years the Royal Commission on Local Government was occupied exclusively with the subject of the creation of county boroughs and the extension of their boundaries. These matters may be regarded as special aspects of a larger question, namely, the conflict between the county borough councils and the county councils.

The opposition of county councils to the efforts of non-county boroughs to obtain county borough status, and the attempts of existing county boroughs to enlarge their boundaries, constitute the forms in which this conflict between town and country has usually been manifested during recent decades.

Between the years 1889 and 1925 the number of county boroughs increased from 61 to 82, 23 new ones being constituted, while 2 were merged in others. The effect of this was to transfer 1,300,000 persons, £6½ millions of rateable value and 100,000 acres of land from the counties to the independent city councils. During the same period there were 109 extensions of the boundaries effected by county borough councils, which removed from the dominion of the county councils a population of 1,700,000 persons, £8 millions of rateable value and 250,000 acres of territory. The total losses to the counties involved by these changes were thus 3,000,000 citizens, nearly £15 millions rateable value and 350,000 acres of land.<sup>1</sup> The percentage of the present population and rateable value of the administrative counties (outside London) transferred to the great city councils by these extensions and creations amounted to 15·7 per cent. and 13·8 per cent. respectively. The proportion of the population contained by the county boroughs (excluding London) increased from 29 per cent. of that of the counties in 1889 to 38 per cent. in 1921, and the rateable value from 25 per cent. in 1889 to 36 per cent. in 1921. The 27 counties most seriously affected lost no less than 23 per cent. of their population, and 21 per cent. of their rateable value. Lancashire lost as many as 667,000 persons, Staffordshire nearly 400,000, the West Riding of Yorkshire 360,000. About

<sup>1</sup> *R.C.L.G.*, p. 136.

1910, as an American observer remarks, "annexation advanced almost to the status of a municipal activity."<sup>1</sup>

It is clear from these figures that the great county authorities have been severely depleted of territory, population and rateable value during the past fifty years, and it is obvious that the process of erosion is still going on and is likely to continue. During the same period, Parliament conferred many new and costly burdens on the impoverished shoulders of the county councils, including education, which required an expenditure from the county rates of £11 millions in 1924-5, mental deficiency and lunacy, for which the counties had to find three-quarters of a million from the rates in the same year, the treatment of tuberculosis (£544,419) and the maintenance of main roads at a much higher standard than was required before the days of motor transport. The amount falling on the county rate fund in respect of this last item alone amounts to more than £8 millions<sup>2</sup> each year. The county councils contend that it is difficult, if not almost impossible, for them to carry out their new and enhanced functions in an efficient manner if they are continually being deprived of the wealthiest portions of their domain by the removal from their jurisdiction of large towns or urban suburbs through the creation or extension of county borough areas.

What are the considerations which for nearly half a century have induced Parliament and the successive ministers responsible for local government to grant the pleas of the towns for independent status, and of the county boroughs for enlarged boundaries?

We are in no way surprised when Lord Simon tells us that there has been "a general desire in Manchester, at least on the council, that the city boundaries should be extended as far as possible."<sup>3</sup> We should expect to find a desire of this kind in most towns. But we should scarcely expect the Local Legislation Committee of Parliament to share the "natural wish" of the

<sup>1</sup> Ernest Griffiths: *Modern Development of City Government*, p. 388.

<sup>2</sup> *Annual Local Taxation Returns 1924-5. 1927. Part III.*

<sup>3</sup> *A City Council from Within*, p. 201.



Mancunians "to increase the importance of the city and of its representatives"<sup>1</sup> if the only effect of granting a petition, apart from satisfying local ambition, were to disturb the equilibrium of the remainder of the county. Sir Francis Dent, an alderman of the Essex County Council, asked the Royal Commission on Local Government to believe that the desire for county borough status "must be mainly attributable to sentiment."<sup>2</sup> But it is scarcely possible that so well-marked a movement as the aggrandizement of the towns, persistently maintained for a period of fifty years in the face of bitter opposition from other local authorities, and requiring the approbation of Parliament, the consent of the government of the day and (at an earlier stage) the Privy Council, should have lacked a more substantial basis than a purely sentimental desire for enlargement.

#### THE MOVEMENT FOR COUNTY BOROUGH STATUS

A distinction must be drawn between the creation of county borough areas and the extension of those already existing. In the opinion of the Onslow Commission the root of the movement for county borough status is to be found, not merely in the desire of the boroughs for independence, but also in such causes as the disparity between the cost of county services to a borough and the quality and quantity of the services provided; the disproportionate contribution made by the towns to the county revenue; and the inequality between the financial contribution of a town and the representation accorded to it on the county council.<sup>3</sup>

The dissatisfaction of the larger non-county boroughs was voiced before the Royal Commission on Local Government in no uncertain tones. One complaint repeatedly made was that the county councils do not provide services of a higher standard for the boroughs than for the rural areas, although the needs and aspirations of the former are often much higher than those of

<sup>1</sup> *Ib.*

<sup>2</sup> *1 R.C.L.G.*, p. 324; *Evidence*: Q. 6665-7, M. III, p. 450.

<sup>3</sup> *1 R.C.L.G.*, p. 338 *et seq.*

the latter.<sup>1</sup> This was stressed particularly in regard to the police forces, main roads and secondary education. The representatives of the larger non-county boroughs on the county council are accustomed to find that the members coming from rural areas, who usually form the majority, are reluctant to provide the strength of police required in urban areas, or to build necessary police stations in the boroughs, owing to the large cost involved in making suitable provision for the needs of the boroughs, as compared with the small cost involved in making the less extensive provision required in the rural parts of the county.<sup>2</sup>

Enormous stress was laid by one witness after another on the importance of main roads as a factor in the struggle of the towns to attain county borough status, and to escape thereby from county jurisdiction. The late Town Clerk of Lowestoft expressed the opinion that the real cause of conflict in county government betwixt town and country is not sentimental but financial; and he declared the incidence of liability for the cost of maintaining the main roads to be "the dominant issue between the county councils and the councils of non-county boroughs."<sup>3</sup> Another official witness, the Town Clerk of Luton, went so far as to say "the only question worth talking about is main roads, and the rest does not matter."<sup>4</sup> Mr. Harbottle, the Town Clerk of Blackpool, not only asserted the incidence of financial liability to be the only important question at issue between the two types of authorities, but suggested that if this question were settled to the mutual satisfaction of both, no further difficulty need arise between them.<sup>5</sup> The witnesses on behalf of town councils, reported the Royal Commission, recognized the great importance which in the opinion of local authorities of all types attaches to the question of the incidence upon the ratepayers in various local government areas of liability to contribute to the

<sup>1</sup> *R.C.L.G.*, p. 341; *Evidence*; Fovargue, M. 13 (V, 1168); Collins (IV, 756).

<sup>2</sup> *R.C.L.G.*, p. 353; *Evidence*: Collins (IV, 977).

<sup>3</sup> *R.C.L.G.*, p. 344.

<sup>4</sup> *Evidence*: Smith, Q. 17, 402 (V, 1065).

<sup>5</sup> *R.C.L.G.*, pp. 342-3; *Evidence*: M. 72-3 (VI, 1319-20).

upkeep of main roads.<sup>1</sup> The crux of the whole question, agreed the late Mr. W. W. Marks, then Clerk to the Bedfordshire County Council, is the question of main roads. The inhabitants of the boroughs, he declared, now use main roads which they never used before, and there is no doubt that "the main object of proposals for the constitution of the boroughs into county boroughs is to secure for the inhabitants the continued use of the county roads while relieving the borough ratepayers of their present obligation to contribute to the cost of the maintenance of that proportion of those roads in which they have a substantial interest."<sup>2</sup>

In the eyes of the town councils this statement is a travesty of the true position. The situation, as seen through the eyes of a large non-county borough, was described in some detail by Dr. G. Mitchell Winter, Deputy Mayor of Torquay and a local justice of the peace. The financial results of the Devon County Council's attitude in settling estimates for 1924-5, he told the Royal Commission, was that the ratepayers of Torquay were called upon to pay £5,000 more towards the upkeep of the main roads in the previous year—a sum equivalent to a rate of nearly sixpence in the pound. The amount contributed by the county council to the cost of maintaining and improving the main roads in Torquay was only £800 larger in 1924-5 than in the preceding year, despite the borough's largely increased payment.<sup>3</sup> Furthermore, owing to an alleged lack of financial resources the county council had again and again deferred approval of highway schemes which Torquay considered urgent and necessary, and had thereby prevented the town council from obtaining a share of the grants available from the Ministry of Transport in aid of road improvements.<sup>4</sup> Moreover, the Torquay Council considered that in order to prevent nuisance and danger to health from dust—a matter of special importance

<sup>1</sup> *R.C.L.G.*, p. 248.

<sup>2</sup> *R.C.L.G.*, pp. 326-7; *Evidence*: Marks, M. 35 (IV, 834); Q. 13, 522, (IV, 837).

<sup>3</sup> *R.C.L.G.*, p. 352; *Evidence*: Winter (VI, 1234).

<sup>4</sup> *R.C.L.G.*, p. 351; *Evidence*: M. 28 (VI, 1231).



in a holiday resort—the main roads of the town ought to be repaired with granite instead of limestone. But the county council had refused to permit the use of this more expensive material, and had even refused to receive a deputation from the town council to discuss the various points at issue in regard to main roads.<sup>1</sup>

No small part of this burden of complaint voiced so unanimously by the chief officers of the larger county towns was directed against the practice of many county councils of declaring by resolution that a county highway should henceforth be a main road maintainable by the county council instead of by the minor authority. The effect of a general policy of “maining”, as this process was called, has been to shift a very large part of the cost of maintaining the country roads from the districts in which they are situated to the whole of the county, and in consequence to impose a substantial part of the cost on the non-county boroughs. That, confessed the Town Clerk of Luton, was his grievance “in a nutshell.”<sup>2</sup>

It is important to note that the position in this respect is seriously aggravated by the Local Government Act, 1929, which transfers a vast mass of minor highways from the county district councils to the county councils, with a consequent increase in the burden liable to fall on the wealthier non-county boroughs. It may confidently be anticipated that the new statute of 1929 will tend to strengthen the desire of the larger town councils for county borough status, while at the same time increasing the need of the county councils to receive financial contributions out of proportion to the cost of the services rendered to such areas.

The dissatisfaction of the towns with the services provided for them by the counties, and the feeling that the county council is either unable to comprehend their needs or unwilling to satisfy them, have produced in many places a state of apathy which is the very negation of good government. The late Mr.

<sup>1</sup> *R.C.L.G.*, p. 351; *Evidence*: M. 28 (VI, 1231).

<sup>2</sup> *Evidence*: Smith, Q. 17, 352 (V, 1065).

Nicholson, for many years Town Clerk of Lowestoft, informed the Royal Commission that the county council elections had at first been keenly contested. The borough representatives had taken a good deal of interest in their work, but after the first two or three elections there had been no further competition for seats on the county council. "At the present moment," he continued, "not more than one or two representatives of Lowestoft made any pretence of performing their duties regularly, first, because Lowestoft is too far off from Ipswich, the seat of county government, and, secondly, because they feel that the affairs of the borough do not receive from the county council the attention which they deserve in view of the large contribution made by the borough ratepayers to county expenses."<sup>1</sup> Most of the representatives of Lowestoft on the county council, he observed, had come to the conclusion that the time and expense involved in attending the meetings of the county council are out of all proportion to the value of the work done.<sup>2</sup>

Similar evidence in regard to the lack of interest taken by the borough in county council elections was given on behalf of Luton, and also in respect of the position which prevailed at Eastbourne<sup>3</sup> before the attainment of county borough status. The Deputy-Mayor of Torquay explained that in his borough the inhabitants shared the feelings of the citizens of Lowestoft. The persons best qualified for office would not stand for election to the county council, mainly on account of the inadequate representation and influence accorded to the town on the county council. Hence very little interest is taken by the borough in the county elections, and there has been only one contest in many years. The impression prevails that Torquay is not treated fairly by the county council in matters of administration.<sup>4</sup>

There are, we can see, a number of separate causes which tend to produce at one and the same time in the larger non-county boroughs an acute discontent with county government, an attitude

<sup>1</sup> *R.C.L.G.*, p. 348; *Evidence*: Nicholson, M. 2 (V, 1127), M. 34 (V, 1143).

<sup>2</sup> *R.C.L.G.*, p. 349; *Evidence*: Nicholson, Q. 18, 470-96 (V, 1128).

<sup>3</sup> *Evidence*: Smith (V, 1049); Fovargue (V, 1177).

<sup>4</sup> *R.C.L.G.*, p. 349.

of indifference towards county elections, a lack of desire to serve on the county council, and a strong disposition to attain county borough status and the independence it implies at the earliest possible moment.

### SOME DEFECTS IN COUNTY GOVERNMENT

While these were the main themes which ran through the minds of the more energetic councillors and administrators in the growing towns, and led them to seek county borough status either from Parliament direct or from the Minister of Health (through the Provisional Order procedure which was available until 1926) it is more than probable that other considerations helped to persuade the Minister or Parliament, consciously or unconsciously, to regard the applications for county borough status in a favourable light.

It has for long been known that county borough government attains on the whole a higher standard of excellence than county government, particularly in the spheres of public health and education, housing and public utilities—a relative superiority due in part to the more generous expenditure of the cities on these services.<sup>1</sup>

The Ministry of Health, to take one example, has for long been deeply concerned about the physical condition of the rural child. Sir George Newman, former Chief Medical Officer of Health to the Ministry, drew the attention of the Board of Education in 1923 to what he termed the decadence of the rural child. In his Annual Report to the Board, the Chief Medical Officer reproduced the significant remarks of Dr. Corkery, the School Medical Inspector for Devonshire, who spoke of the “steady and manifest decline in the general physique, appear-

<sup>1</sup> The average assessable value per head of population was £5.9 in the county boroughs in 1924-5, and £5.3 in the counties. The average amount of annual expenditure falling on the rates was as follows:—*County Boroughs*: Elementary education, 2s. 4.3d.; Higher education, 7.3d.; Lunacy, 1.4d.; Highways and bridges, 1s. 11.7d. *County Councils*: Elementary education, 2s. 0.5d.; Higher education, 6.2d.; Lunacy, 1.6d.; Main roads and bridges (including those maintained by town and district councils), 1s. 5.5d. 1924-5 *Annual Local Taxation Returns* (1927), Part II, Table III, and Part III, Table II.



ance and stature of the rural child."<sup>1</sup> The country child, Dr. Corkery continued, was in former years far superior in health and vigour to its less fortunate sister and brother who were reared in a town, and the difference in appearance and health was obvious to the most casual observer. But the rural child has now lost its heritage and the town-bred child is wearing the lost mantle. "One formerly pictured the country child with a chubby face, pink cheeks, bright alert eyes and a sturdy figure. . . . Now you find many of the children in country schools (excepting the children of farmers) are pale-faced, anaemic-looking, and without *joie de vivre* expressed in their general pose and countenance."<sup>2</sup> Why this change? he asked; and expressed the opinion that a steady and progressive decline in the general physique of the majority of country children is abundantly manifest.

The Ministry of Health were so disturbed by these and similar indications of deterioration that an extensive investigation was initiated into the health of some ten thousand rural children living in twenty-two separate counties. The result of this enquiry showed that although the physical decadence of the country child had been exaggerated,<sup>3</sup> sufficient grounds for uneasiness nevertheless exist. The conclusions arrived at were that there is a substantial amount of physical impairment among rural children, and that, while rural children are still physically ahead of urban children, they are not so much ahead as formerly. In some areas the rural child has now definitely fallen behind his urban prototype.<sup>4</sup> The change in the relative position is due not to retrogression in the counties but to progress in the towns. "The remarkable progress which has taken place in the towns," Sir George Newman reported, "is not being shared equally in the rural districts."<sup>5</sup> Hence, whilst there is no ground for believing that we are going backward in the rural

<sup>1</sup> *The Health of the School Child. Annual Report of the Chief Medical Officer of the Board of Education for 1923 (1924)*, p. 15.

<sup>2</sup> *Ib.*

<sup>3</sup> *Ib.* (1925), p. 34.

<sup>4</sup> *Ib.*, pp. 30 and 46.

<sup>5</sup> *The Health of the School Child. Annual Report of the Chief Medical Officer of the Board of Education for 1924 (1925)*, p. 47.

districts, there is no assurance that we are going forward. "Broadly speaking, however, in the towns we are going forward, and it is important that similar advance should be characteristic of the rural districts, from which the nation should be receiving a new and virile stream of young life."<sup>1</sup>

While the causes of the relative inferiority in the health of the growing rural generation are not all due to matters within the control of local authorities, and include biological factors such as intermarriage, breeding by unfit parents and the raising of excessively large families, the body of experts who conducted the enquiry did not hesitate to attribute the major part of the responsibility to causes definitely within the sphere of local government.

Such improvement and progress as has taken place, they insisted, is due, above all else, to medical inspection and supervision.<sup>2</sup> The physical impairment and relative inferiority in the health of the rural child may in large part be attributed to bad housing, inadequate provision of schools involving long daily walks for the children in all kinds of weather, unsuitable school buildings devoid of proper sanitation, lighting, heating and ventilation, and an absence of proper accommodation and food for midday meals at the school. It is an agency of disease and deterioration, the Chief Medical Officer warned the Board, if, as is often the case, a mal-nourished child is subjected to an inordinately long walk to and from school; or if, when it reaches school wet and cold, there are no means of drying and warmth; or if the school which it is compelled to attend is unsanitary, or is conducted in an unhealthy way.<sup>3</sup> The Report contained a number of recommendations designed to remedy these and other defects in municipal administration revealed by the enquiry. An effort was made in particular to ensure that medical treatment and school nursing should be available in the county areas.<sup>4</sup>

<sup>1</sup> *Ib.*, p. 38.

<sup>2</sup> *Ib.*, p. 46.

<sup>3</sup> *Ib.*, p. 47.

<sup>4</sup> *The Health of the School Child. Annual Report of the Chief Medical Officer of the Board of Education for 1924 (1925)*, pp. 48-9.

The discreditable state of affairs disclosed by this investigation does not logically constitute an indictment of the system of county government as a whole, because many of the towns in which progress has been observed are not county boroughs, but urban districts and non-county boroughs embodied in the county framework. But all the rural areas are county areas without exception, all the largest towns are independent units, the county council is responsible for elementary education in the rural districts, and the county council is empowered to exercise a general supervision over public health administration throughout the county.<sup>1</sup> There is sufficient identity, therefore, between the county authorities and the areas which are backward in caring for the health of the children, to raise a presumption in favour of county borough government and against the continuance of county council control in the minds of the leading officials at the Ministry of Health, and of most other persons whose main interest in local government is centred in its functional results in terms of human life and the welfare of the future generation.

Another consideration of a different kind which has no doubt assisted the growing towns in their struggle for independent status, and militated against the county councils, is the general realization that city government is in practice far more democratic and popular than county government, notwithstanding that the franchise is legally the same in both cases. This is due partly to the long distances to be traversed, and the time and expense involved in attending meetings of the county council and its committees at the county town; partly, no doubt, to the discontent and apathy of the local population caused in certain cases by the failure of the county councils to provide satisfactory services, coupled with the impossibility of obtaining sufficient representation on the council to secure redress.

There are, unfortunately, no official returns of local elections in Great Britain. It is known, however, that town elections,

<sup>1</sup> Cf. *Memorandum on the Duties of Medical Officers of Health in England and Wales* (1925), para. 20; 1 R.C.L.G., p. 72.



and particularly county borough elections, evoke far greater interest than county council elections, and in consequence a much higher percentage of the electorate goes to the poll. I endeavoured in 1925 to obtain through unofficial sources some definite information in reference to the county council elections which had recently taken place. An astonishing state of indifference was revealed. Although the figures at my disposal have not the certainty of authentic official returns, I offer them to the reader in the belief that they are correct.

In Somersetshire I was informed that only 7 seats on the county council were contested. In West Suffolk there was only 1 contest. In the East Riding of Yorkshire 43 out of 54 councillors were returned unopposed. At Keighley, in the West Riding, only 878 persons voted out of an electorate of 8,500. In Essex practically the whole council was returned unopposed save at Leyton, where there were 3 contests and a 5-per-cent. poll. In Cheshire 44 members were returned unopposed, despite a contest at Northwich for the first time since the establishment of the county council in 1889. Apathy reached high-water mark in Cumberland, where 38 county councillors were returned unopposed, and in at least two divisions of the county not even nomination papers were forthcoming for any candidate, with the result that parts of the county were actually unrepresented on the council. In Cornwall, only 3 seats out of 66 were contested, while in Devonshire and Dorset such contests as took place had no political or municipal significance. In Norfolk there were 44 uncontested seats. At one political meeting for the county council elections in that county the audience consisted of 7 persons; at another, the candidate and a reporter were the only persons present in the hall. At Chichester the first contest for thirty-five years took place. A sandwichman paraded the ancient city on behalf of a candidate, tinkling a small bell, but apart from this attempt to hearten the faithful there was, according to a local newspaper, "little to betoken that a county council election was in progress." In Leicestershire there were 9 contests for the whole county. In a

large number of areas ■ 5- or 10-per-cent. poll was common.

In ■ few counties much better results were observed, notably in Lincolnshire, Durham, parts of Middlesex, the West Riding of Yorkshire, and in Monmouthshire. In these places local interest was active and the elections were hotly contested on vital issues of municipal policy. But ■ thread with so many weak strands is indeed ■ frail cord to bind the community to the organs of its local government. It is obvious that the spirit of democracy has not penetrated county government, no matter how broad based the legal franchise may be. In practice, the county councils remain to a large extent the playground of the leisured classes. Although this state of affairs may to a small extent be remedied by the provision contained in the Local Government Act<sup>1</sup> enabling the travelling expenses of county councillors to be paid out of public funds, it will be long before the popular interest evoked by county government will be able to stand comparison with that prevailing in the towns.

### THE CASE FOR THE COUNTIES

The great mass of county councillors have remained sublimely unconscious of the effects produced in Westminster and Whitehall by these and many other facts relevant to the desire of the larger towns to acquire county borough status. Indeed, the county rulers appear for the most part completely unaware of the very existence of the reasons which have led the towns to struggle so violently for independence. "I have asked myself," Mr. Francis Dent told the Royal Commission on Local Government on behalf of the County Councils Association, "whether there is a single municipal function, as such, the exercise of

<sup>1</sup> Local Government Act 1929, Sect. 52. It is to be noted with regret that many county councils refuse to exercise their powers under this section. The payment of travelling expenses is, however, in any case insufficient to meet the difficulties of the present situation. County council government will never become broad-based and popular until councillors of slender means are entitled to claim subsistence allowance and in certain cases payment for the loss of earnings involved by attendance to council business. This has now been recognised by the Report of the Inter-Departmental Committee on Expenses of Members of Local Authorities. Cmd. 7126/1947.



which requires county borough status, and I am unable to think of one that really does. In a homogeneous area like a borough, in all the matters affecting public health and borough life, I cannot now see ■ single function that requires for its better exercise county borough status. They can all be exercised by ■ borough without county borough status.”<sup>1</sup> Under the county system, he continued with a great burst of confidence, “every part of the county is assured of obtaining the services it needs by means of its own local administration, supplemented by the wider services of the county councils, which are equally available throughout the administrative area.”<sup>2</sup>

The county citizen, the witness for the counties explained, may be and indeed frequently is ■ member both of the county council and of ■ minor authority within the county. He has thus an opportunity of taking part in the government of the county as a whole, and also of that particular part of it in which he happens to reside. It can be therefore asserted, he confidently declared, that the dual system is more likely “to foster pride and patriotism” than city government, and consequently more likely to produce efficient local government than any other arrangement.<sup>3</sup>

A sweeping statement of this kind could only be made by disregarding the facts which other witnesses were to place before the Commission or ignoring those which had already been brought to light by the investigations of numerous official committees or commissions. But so intent was the County Councils Association on justifying the *status quo* that its representatives were prepared not merely to ignore certain facts of an inconvenient character, but to misinterpret others in a manner which can scarcely have been helpful to the Royal Commission. Thus, the very apathy displayed at county elections was converted into ■ source of pride by the champions of county government. Although it might be ■ fact that statistics showed that fewer ratepayers voted in county council elections than in municipal

<sup>1</sup> I R.C.L.G., p. 324; *Evidence*: Dent, Q. 665-7 (III, 450).

<sup>2</sup> I R.C.L.G., p. 216; *Evidence*: Dent, M. 37-8 (III, 467).

<sup>3</sup> I R.C.L.G., p. 206; *Evidence*: Dent, M. 34 (III, 466).



elections, Mr. Dent took any such figures to indicate that "the county inhabitants were generally satisfied with the work of their representatives."<sup>1</sup>

Another alleged advantage possessed by the county system of duplicated and overlapping authorities is the large number of persons it employs in one way or another in voluntary service on the councils. The solicitude for the separate and inviolate existence of each district authority shown by the County Councils Association when resisting the aggrandizement of the towns, contrasts strongly with the complete disregard for the feelings and independence of the minor authorities which was displayed by the counties at a later stage of the Commission's proceedings when they laid claim to the acquisition of a vast number of powers now exercised by the councils of rural districts and urban districts and non-county boroughs.

The complaint of the non-county boroughs that each year they are mulcted by the county of large sums of money for which they receive no adequate return in the way of services fell on deaf ears so far as the County Councils' Association was concerned. The right of a county council to profiteer out of the wealthier urban areas in the county appears part of the natural order of things in the eyes of the county rulers. The fact that a district or town desiring severance is usually an area in which rateable values<sup>2</sup> are most likely to increase, with a consequent loss of this potential increase to the county, seems to most county councils to be in itself sufficient reason for opposing such severance tooth and nail. It is to be noted that although the assessable value per head in a borough attaining county borough status is normally less than the assessable value prevailing throughout the county, enormous claims on the former are nevertheless usually made by the county council in respect of the increase of burden alleged to result from severance.

An illustration of this was the case of Wakefield, whose population on attaining county borough status was 53,000 with a

<sup>1</sup> *R.C.L.G.*, p. 207; *Evidence*: Dent, Q. 7252-9 (III, 478).

<sup>2</sup> *R.C.L.G.*, pp. 213-14; *Evidence*: Dent (III, 456-461).

rateable value of £250,000 which gives a rateable value per head of less than £5. The assessable value per head in the administrative county was at this time £6. The financial position which might therefore have been expected in such circumstances, observed an expert witness, was that the expenditure on services would have been greater in the borough, and capacity to pay greater in the county, with the result that, when Wakefield was constituted into a county borough, it would have had a claim against the county council for the increase of burden falling on the borough ratepayers.<sup>1</sup> In actual fact the severance had the opposite result. The county council made a claim against the county borough council for the enormous sum of £140,000, almost all of which was based on the increase of burden alleged to fall on the county ratepayers as a result of the severance of Wakefield from the county. This claim, equivalent to more than half the assessable value of the whole city, in a capital sum, must have been based upon the difference between the contributions previously made by the Wakefield ratepayers to the county expenses and the expenditure previously incurred by the county council in providing the citizens of Wakefield with such services as the main roads, higher education and so forth.<sup>2</sup>

In this way it is sought to make one of the very causes of dissatisfaction with county government felt by the larger towns an obstacle in the way of their independence. The profit at present accruing to the county council from the larger urban aggregations harboured so much against their will within the bosom of the county, was the underlying basis for a plea put forward by Sir Edward Holland, the Chairman of the Surrey County Council, that the severance from the county of a county borough on its creation should not be complete. The new county borough council should undertake, this witness proposed

<sup>1</sup> These claims were made under the provisions of Sects. 32 and 62 of the Local Government Act 1888, later amended by the Local Government (Adjustments) Act 1913, and the Local Government (County Boroughs and Adjustments) Act 1926. These enactments have now been repealed and replaced by the Local Government Act, 1933, Section 152 and Fifth Schedule.

<sup>2</sup> I R.C.L.G., p. 350; *Evidence*: Collins (IV, 968-9).





to the Royal Commission, ■ "continuing responsibility" with the county council for the administration and cost of the main roads, higher education, and the maintenance of institutions which could properly be provided to meet the needs of large areas. This, he added, would at once remove a great many of the objections of the county councils to the constitution of county borough authorities.<sup>1</sup>

The suggestion that ■ borough must remain more or less in the administrative county on the ground of the necessity for the continued association of urban and rural areas under county government appeared to the late Sir Robert Fox, formerly Town Clerk of Leeds and an administrator of high repute, to imply that the inhabitants of a town which has its own problems and its own business, and is quite distinct from the remainder of the administrative county, should be kept under county government for the sake of the contributions made by ratepayers in the towns towards the cost of the maintenance of main roads and the provision of higher education. If such contributions were necessary for the efficient performance of the county's duties, added Sir Robert Fox, they should be made by the national taxpayer and not by the city ratepayer.<sup>2</sup>

It will be shown later that although it may be both desirable and feasible to have some form of mutual co-operation between county and county borough for certain services, and possibly thereby to resolve the conflict of aims which is now undermining the structure of local government, the form which that co-operation will take must be distinctly unlike the "continuing responsibility" envisaged by the witnesses for the County Councils Association. There must be some limit to the extent to which the counties representing the countryside can call upon the boroughs representing the towns for financial aid. And it is manifestly absurd that a county council should be able to make a profit out of the smaller towns but not out of the largest ones; that there should be no limit to the exploitation of the

<sup>1</sup> 1 R.C.L.G., p. 365; *Evidence*: Holland (V, 116).

<sup>2</sup> 1 R.C.L.G., p. 360; *Evidence*: Fox (III, p. 496).



non-county boroughs, but that when a city reaches a population mark of 50,000 persons, or 75,000 (or whatever figure is required as a minimum size before county borough status can be granted), the county should no longer be able to compel it to subsidize the rural ratepayer.

Much discussion took place before the Onslow Commission on the question of the size of population which should be required as a qualification for independent city status. The minimum figure which entitled a town council to apply to become a county borough was fixed by the Local Government Act, 1888 at 50,000, and it was subject to this condition that all the changes to which reference has been made took place.

The county council representatives protested at length that this figure was grossly inadequate, and calmly proposed that no city should be considered fit to apply for county borough status unless it could boast a population of 250,000<sup>1</sup>—a figure reached only by a dozen industrial centres in the whole country!<sup>2</sup> A town of 50,000, they contended, should be regarded as far too small to be permitted the privilege of freedom from the inestimable boon of the county council's brooding solicitude. Moreover, a population of 50,000 is far too small to allow of the efficient or economical administration of such services as police, public health functions, main roads and so forth.<sup>3</sup> The Urban and Rural District Councils Associations, with much to lose and nothing to gain, piped up obediently in a lower key to the tune called by the county councils, demanding the more modest figure of 100,000 as a qualification for county borough status. Since 1888, agreed these disinterested advocates of ruthless efficiency and large-scale organization on the part of others, such services as education, electricity supply, town-planning, etc., have been so much developed that they cannot now be efficiently administered by the council of a town with no more than 50,000 inhabitants.<sup>4</sup>

<sup>1</sup> 1 *R.C.L.G.*, p. 362.

<sup>2</sup> *Census, England and Wales, 1921, General Report*, p. 24.

<sup>3</sup> 1 *R.C.L.G.*, p. 314 *et seq.*

<sup>4</sup> *Ib.*, p. 367.

Neither the witnesses of the County Councils Association nor the representatives of the vast horde of small urban and rural district councils who had so recently enrolled themselves among the apostles of transcendent efficiency, appeared to realize that the standards they were laying down so glibly for the towns would, if applied to the counties, immediately disqualify a considerable number of them as unfitted to remain independent units of government for the services in question. The figure of 100,000 proposed by the Urban and Rural District Councils Associations would eliminate forthwith such administrative counties as Huntingdonshire (54,748), the Isle of Ely (73,778), the Holland Division of Lincolnshire (85,225), the Soke of Peterborough (49,954), Rutlandshire (18,368), Westmorland (65,740), the Isle of Wight (94,697), Anglesey (51,695), Brecknockshire (61,257), Cardiganshire (61,292), Merionethshire (45,450), Montgomeryshire (51,317), and Radnorshire (23,528).<sup>1</sup> The less moderate figure of a quarter of a million population advocated by the county witnesses as a quantitative criterion of the fitness of a town to become an independent unit of government would, if applied to the county communities, knock out a large number of other county councils, including Cambridgeshire (126,602), Bedfordshire (206,462) and Herefordshire (113,118).

Needless to say, neither the county councils nor the county district councils realized the implications of their demands, nor intended to suggest that what was to be sauce for the town should be sauce for the country. An awkward moment occurred when a member of the Royal Commission asked a witness for the County Councils Association, "What about the resources of a county that has not got a population of 250,000?" But the witness blandly replied, "The question does not arise—you are not making new counties."<sup>2</sup>

For many services, one of the chief county spokesmen had observed, "it is generally acknowledged that the larger the area (*within reason*) the better the administration"—the word

<sup>1</sup> 1921 *Census, Preliminary Report*, Table III.

<sup>2</sup> *R.C.L.G.; Evidence*: Mellish (III, 562).

“better” meaning that a service could be more efficiently, economically and effectively administered over a large area. “Any change, *therefore*, if change there must be, should be in the direction of strengthening rather than weakening the county unit.”<sup>1</sup> I have italicized three words in these remarks in order to emphasize the astonishing degree to which he and his colleagues are oblivious of the need for any alteration in the areas of the county councils. In their view, every statement of fact showing the necessity for large or larger areas of administration is but an argument to prove that the county councils as at present constituted are correct units of administration, and the county a *Societas perfecta* of immaculate design. The Registrar-General may fulminate without let or hindrance against “the unsatisfactory nature of the county unit . . . owing to the extreme differences in the sizes of their populations.”<sup>2</sup> He is but a miserable statistician, concerned only with the base things that can be measured. The true inward merits which make each and every county an administrative perfection can never be found wanting for the simple reason that they cannot be weighed. Measurement may have its uses for lesser bodies, but not for the counties. “Whatever were the other changes made in the existing law and procedure” it was submitted on behalf of the county councils “the condition that county government must remain essentially unhampered and undisturbed should be retained as paramount.”<sup>3</sup>

The counties, in short, must be regarded as sacrosanct. No hand must touch them, though the heavens fall, no matter what changes may be imposed in the interests of the national welfare on other organs of local government. Parish meetings and parish councils, urban districts and rural districts, the councils of the towns and cities, including the boroughs whose charters in many cases reach back for centuries into the dim past: all these, from the least to the greatest, may without objection be subject to the flux and change to which all the institutions of

<sup>1</sup> 1 R.C.L.G., p. 217; *Evidence*: Dent, M. 37-8 (III, 467).

<sup>2</sup> *Census, England and Wales, 1921, General Report*, p. 21.

<sup>3</sup> 1 R.C.L.G., p. 237; *Evidence*: Dent, M. 60-1 (III, 549).



man are heir. But the county councils, established by Parliament in 1888—not quite seventy years ago—and administering areas in many cases far different from the ancient or geographical counties of historical tradition, claim the right to be regarded as mysteriously sacred and inviolable, and liable to suffer no change from the profane hand of legislator or Minister. The desire for county borough status, Mr. Dent had declared, in answer to a question by the Chairman of the Royal Commission, “must be mainly attributable to sentiment,”<sup>1</sup> and might accordingly be heavily discounted from the point of view of practical expediency. The county areas, due almost wholly to sentiment, were nevertheless sought to be justified and retained intact by this and other witnesses, not on the ground of sentimental attachment or historical association, but on account of their alleged desirability as local government units viewed from the standpoint of efficiency.

In the result, so far as the creation of county borough councils is concerned, the Royal Commission advised that the population figure of 50,000 should be increased to 75,000. This, together with various other recommendations, was embodied in legislation<sup>2</sup> passed in 1926. The figure has now been raised to 100,000.

#### DAILY TIDES OF POPULATION

Despite the haughty indifference to quantitative factors displayed by the County Councils Association in all that concerns the putting of their own house in order, the Registrar-General has continued his patient statistical investigations unmoved. In recent years his attention has been directed to certain phenomena which have a most important bearing on the conflict between town and country authorities. I refer in particular to the huge tidal wave of population which sweeps in and out of many large cities every morning and evening. This daily movement, due to improved methods of transportation, is an entirely new factor

<sup>1</sup> *R.C.L.G.*, p. 324; *Evidence*: Dent, Q. 6665-7 (III, 450).

<sup>2</sup> *R.C.L.G.*, p. 471 and *passim*.

in the municipal situation, and scarcely existed when the present framework of local government was designed in the latter half of the nineteenth century.

It is possible to measure the dimensions of this tidal wave with some accuracy as a result of certain new information obtained during the Census of 1921 and now incorporated in the official reports. For the first time we have tables showing the place of work of each adult member of the population as distinct from the place of residence. These figures show that at the present time in many parts of the country masses of population move in tides of daily ebb and flow. These movements obviously have a direct bearing upon many difficult problems connected with traffic, transport, housing,<sup>1</sup> and other services.

The resident population of any locality is no longer the sole matter of concern to that locality. During the day it may be peopled by a body of workers numerically far exceeding and even differently composed from its so-called permanent population. Local public services must be provided for these invading armies, and for many practical and administrative purposes we have now to reckon with the fact that, for localities situated within a region of highly organized industry, separate account must be taken of both a night and day population, the two often differing widely from each other in number and constitution.<sup>2</sup>

The dimensions of this daily movement of population between home and workplace are shown in detail in the Workplaces volume of the Census and the General Report (Part XI).

The City of Manchester, we find, received during each working day a *net* increase (after allowing for movements in the opposite direction) of nearly 75,000 persons, an addition of 10·3 per cent. of its night population. Birmingham receives a net increase of 33,525 persons on every working day of the week; the county borough of Liverpool, a net increase of 38,007 persons; Newcastle-on-Tyne, of 22,683 persons; Coventry, of 6,842; Sheffield, of 5,259; Bristol, of 6,587; Leicester, of 6,615; Derby,

<sup>1</sup> *Census, England and Wales, 1921, General Report 1927, p. 190.*

<sup>2</sup> *Ib.*

of 7,746; Barrow-in-Furness, of 3,984; Nottingham, of 5,383; Stoke-on-Trent, of 4,600; Wolverhampton, of 3,469; Kingston-upon-Hull, of 5,574; Bradford, of 10,516. All these places are county boroughs, but the figures for some of the non-county boroughs and larger urban districts are also worthy of note. The urban district of Stretford in Lancashire, for example, with a night population of only 46,535, receives an addition during the day of no less than 10,000 workers, an increase of 21.5 per cent. The borough of Wallsend receives a still larger accretion of population each day. The movement reaches its greatest size in the case of London, where a gigantic army numbering more than 800,000 men and women and young persons invades the area of the City Corporation and the Inner Ring of the Metropolitan boroughs on every working day, retreating in the evening to the outlying metropolitan boroughs and Outer Ring of urban areas<sup>1</sup> where their homes are situate.

The above figures comprise the *net* increases brought about by the influx of workers into each city, after allowance has been made for the exodus of persons living in the borough but working outside it. There are many cases revealed by the census report where the balance is in an opposite direction: that is, where the number of persons absenting themselves each day from the town is greater than the number of immigrants coming to work within its boundaries. Thus, to take a few examples, Salford loses on balance 27,835 persons, Gateshead 17,874, Wallasey 15,059, Southend-on-Sea 14,545, Blackpool, 10,125, South Shields 6,220, Stockport, 7,634, Brighton 5,918, Barnsley 6,366, Middlesbrough 4,053, Bolton 4,741, Oldham 4,094, Southport 4,907, Wigan 4,686, Tynemouth 3,264, Walsall 5,190.<sup>2</sup> In no case, however, does the net efflux from the cities approach in magnitude the daily influx to such industrial centres as London, Manchester, Birmingham, Liverpool or Newcastle-on-Tyne. Moreover, the aggregate of inward movements to the towns is much greater than the aggregate of outward movements from

<sup>1</sup> *Census, England and Wales, 1921, General Report, 1927, pp. 193-7. See also Workplaces volume of the Census, passim.*

<sup>2</sup> *Ib.*



the towns made by persons living therein going to work outside the borough boundaries.

A long and elaborate table contained in the census report shows the places of residence of the persons who work in a different area. This proves conclusively, as we might expect, that where a town has an inward flow of non-residents coming to work, and an outward flow of residents going to work, the areas of residence of the former are seldom co-extensive with the areas containing the workplaces of the latter.<sup>1</sup> That is to say, areas tend to be more or less specialized for residential or industrial purposes, and population is seldom exchanged between districts.

The significance of the statistical information reviewed above, from the point of view of local government, lies mainly in the fact that county borough councils are obliged to provide costly services, such as sanitation, the cleansing, lighting and paving of highways, police forces and fire brigades, a supply of water, electricity, and transportation, to meet the requirements of the large number of workers who constitute the daily tidal wave of population. These mobile consumers of municipal services do not contribute anything substantial to the large proportion of the cost which falls on the rates. For at the very moment when the bulk of them would become rateable as householders in respect of these services, they step over the border to the place of residence, and thereby escape liability. In the circumstances it is scarcely to be wondered at that the county boroughs have been driven again and again to seek to enlarge their boundaries in order to include within their jurisdiction the dwelling-places of these elusive nomads. Yet, as the boundaries extend, so the nomads retreat farther and farther away into still more distant dormitories. This escape has been rendered possible by the continual improvement in transport facilities.

It is strongly felt, writes Lord Simon, that an unfair burden is placed on Manchester ratepayers for the benefit of outsiders. Manchester provides ■ College of Technology, a centre for training teachers, an art school, and many other services

<sup>1</sup> *Census, 1921, Workplaces volume, Table II, pp. 27-170.*

for the whole of South-East Lancashire. Although in some cases the outside authority makes a contribution to the cost, yet it never pays its proportionate share, and every student from Salford or Stretford is a burden to Manchester.<sup>1</sup> The best example is perhaps the loan of £5 millions made by Manchester City Council for the completion of the Manchester Ship Canal. The whole risk and loss of this loan was borne by Manchester; it meant a shilling on the rates for years. The surrounding towns contributed not one penny, but shared equally with Manchester the benefit of cheaper freights and better trade.<sup>2</sup>

The climax has been reached in London (and certain other centres) where the London County Council, in carrying out their housing programme, have been forced through congestion to become a colonizing power and to build great housing estates outside their own boundaries. In this way they are spending their ratepayers' money in order to create rateable value for other local authorities. The London County Council will not be able to touch a penny of the new rateable values they have themselves created at Becontree and elsewhere.<sup>3</sup> At the same time, enormous burdens in regard to education, public health, and other services are thrust on to the local authorities in whose areas the newly-housed population is thus planted, regardless of their willingness or ability to carry them.

The problem described above has been rendered far more acute by the scheme of derating introduced by the Local Government Act of 1929. Previously the cities had been able to reimburse themselves to some extent, if not in full measure, for the expense involved in catering for the needs of the day population, with the revenue received from the industrial premises in which productive work is carried on. Now, under the derating scheme, the occupiers of the most profitable kinds of assessable property, including mines, factories, workshops, mills and railways, are relieved of their liability to contribute towards the local rates, to the extent of three-quarters of the annual assessable value. The

<sup>1</sup> *R.C.L.G.; Evidence: Spurley Hey* (VII, 1392).

<sup>2</sup> E. D. Simon: *A City Council from Within*, p.202.

<sup>3</sup> See page 42, *ante*. Also *R.C.L.G.*, p. 440; *Evidence: Brooks, M.* 4 (IV. 875).

effect of this must clearly be to increase the share of the local revenue contributed by residential property relatively to the total rate-borne expenditure. The city councils have therefore become more zealous than ever in seeking to include within their boundaries the dormitory areas containing the homes of the workers who now slip silently across the border each night.

The financial and administrative features of the situation are, however, not the only aspects which deserve attention. It has been truly said that the division of interests which necessarily results when a man works in the area of one local authority and has his home in that of another is detrimental to the growth of any sane local patriotism. It ensures that his interest in local affairs and elections is divided, and often he takes practically no part in them.<sup>1</sup>

### THE EXPANSION OF THE CITIES

The daily ebb and flow of population is, we can see, one of the dominant facts which have led the county boroughs to petition Parliament, or the responsible authority for an enlargement of their boundaries. The cities have often not been fully conscious of this underlying cause, and their case at the local enquiry instituted by the Minister of Health, or before the Local Legislation Committee in Parliament, has frequently rested on arguments derived from consequential results of an apparently unrelated character.

There are, however, a number of other causes of an important nature which have impelled the cities to seek enlargement. The mere fact of the growth of population in the locality is one contributing factor. The increasing dependence of the smaller communities on services supplied under agreement by a neighbouring county borough council is another. The need of a town whose industrial development is increasing rapidly to secure agricultural land on its borders, or at least a belt of open spaces or green fields accessible to its inhabitants, and free from the danger of being built upon, is yet another. The desire to

<sup>1</sup> C. B. Fawcett: *The Provinces of England*, p. 70.



improve efficiency and effect those economies of administration which are made possible only by larger areas of operation has in some instances been an important element.

These and many other factors have played their parts in the struggle for enlarged boundaries. The cities have pressed their claims with unremitting vigour, and the persistent prosecution of their cause met with marked success during the forty years which elapsed between the passing of the Local Government Act, 1888, and the Local Government (County Boroughs and Adjustments) Act, 1926. The latter measure abolished the power of the Minister of Health to create a county borough by provisional order. Thereafter, a municipal corporation could acquire county borough status only by promoting a private Act; and such applications were forbidden if the population of the borough did not exceed 75,000. The extension of county borough boundaries, except where the proposals were agreed, could henceforth also only be effected by private Act and not, as previously, by provisional order.<sup>1</sup>

The counties have not suffered in silence. Zealous in opposing representations for the extension or creation of particular county boroughs made to the Minister of Health (or his predecessors the Local Government Board) no less than in resisting Private Bill petitions in Parliament, it was largely due to their influence that the entire practice and principle in the matter was laid open to challenge by the appointment of the Royal Commission on Local Government in 1923. In the very forefront of the terms of reference of this Commission (whose chairman was Lord Onslow) was an express instruction to enquire into the existing law and procedure relating to the extensions of county boroughs, and the effect thereof on the administration of the councils of counties and of non-county boroughs, urban and rural districts.

When the Onslow Commission came to embark upon its task, every sort of argument, good, bad and indifferent, valid and

<sup>1</sup> Since 1945, the Local Government Boundary Commission has been the authority responsible for making changes of these and other kinds.

invalid, relevant and irrelevant, was employed by the counties and county districts to stop the rot which they regard as threatening the very fabric of county government, from setting in farther and thus undermining the entire structure.

One of the grounds of opposition to city extensions put forward by the County Councils Association was that expansion of this kind would tend to make Parliament reluctant to entrust further functions to county councils, since if the areas of administrative counties were diminished it might appear that the county councils were no longer suitable authorities to exercise functions which ought to be performed over areas "at least as large as the present normal administrative counties."<sup>1</sup> If all these changes were permitted to go on, said one of the Association's witnesses, the residue of the administrative county would be "an entirely different unit from that which Parliament contemplated when it passed the Act of 1888 setting up the county councils." "I do not think," the witness continued gravely, quoting the words used on a notable occasion by a leading Parliamentary counsel, "the county ought to be eaten leaf by leaf like an artichoke."<sup>2</sup>

One of the possibilities which Parliament had contemplated in 1888 was, however, that just as the towns would be frequently in need of altering their boundaries, so would the county frontiers require constant adjustment. The Act of that year provided, indeed, that precisely the same machinery should be available for effecting a change in the one case as in the other. But whereas the cities have continually made use of the machinery which Parliament provided for altering boundaries, there appears to be no case on record in which a county council has tried to improve its boundaries, or to amalgamate with another county. The areas of the administrative counties, the city councils urged, should be regarded as subject to reorganization in the same way as the areas of other authorities. The representatives of the Association of Municipal Corporations

<sup>1</sup> *R.C.L.G.*, p. 217; *Evidence*: Dent (III, 464).

<sup>2</sup> *R.C.L.G.*, p. 239; *Evidence*: Holland, M. 12 (IV, 855).



took the view that, where county councils found their areas seriously reduced by county borough extensions or creations, they could make use of their power to put forward proposals for the union of the residue of one administrative county with a part or the whole of another. In considering the question from this point of view, the Royal Commission observed, the town councils had "discarded sentiment and regarded the matter purely as a question of administration."<sup>1</sup>

This appeal to efficiency in the face of sentiment appeared a rank heresy in the eyes of the outraged counties. All questions of mere administrative expediency, vile and pedestrian as they must necessarily be from their very nature, ought clearly to be ignored when the sacred body of the county is endangered. The conditions laid down by Parliament in regard to gas and water supplies, remarked the late Sir William Vibart Dixon, formerly Deputy Clerk to the West Riding County Council, showed clearly that the correct policy was to secure the provision of these services over "comprehensive areas which could not be scientifically designed if they were to correspond with local government boundaries."<sup>2</sup> Hence the administration of such public utilities ought to be carried out by local authorities working in agreement with each other, and no weight should be attached to the argument that it was desirable to extend the jurisdiction of a county borough council for the purpose of securing an efficient and economical supply of water, gas or electricity. Purely utilitarian considerations of that kind should be ruled out altogether.

The idea of excluding the effect of proposed boundary extensions on the administration of particular services was eagerly taken up by the district councils. The Urban and Rural District Councils Associations not only supported the view of the counties that no weight ought to be attached to any argument based on the need for wider areas and unified administration in regard to gas, water and electricity supplies, but added sewer-

<sup>1</sup> *I R.C.L.G.*, pp. 229-30.

<sup>2</sup> *I R.C.L.G.*, p. 420; *Evidence*: Dixon, M. 10 (III, 587-8).



age and sewage disposal to the questions which should be regarded as irrelevant.<sup>1</sup> The official representative of the rural district councils seriously contended that the question whether a district on the outskirts of a city had a proper system of sewerage or sewage disposal should be "wholly excluded from the purview of the authorities who dealt with a proposal for the extension of the boundaries of a county borough," unless the insanitary conditions were actually injurious to the health of the inhabitants of the city.<sup>2</sup>

The county councils followed up what they apparently believed to be a brilliant line of defence by demanding that not only should all questions relating to gas, water and electricity supply, sewerage and other health services be excluded from consideration, but that all matters concerning transportation services, education and town-planning be also left out of account!<sup>3</sup> As these comprise most of the more important municipal activities, it is not easy to discover what these disinterested public servants conceive should legitimately be taken into consideration in deciding whether a county borough is entitled to extend its boundaries. The lengths to which the county councils are prepared to go in their resistance to change was revealed by the witness who declared that one ground for opposing the aggrandizement of the towns is that the county borough councils pay higher salaries to their officers than other local authorities. From this he inferred that "more was expended on administration than before," with a consequent increased burden on the ratepayers<sup>4</sup>—an entirely fallacious argument which will not bear a moment's investigation.

The whole discussion regarding the creation of independent city councils and the extension of county borough areas took place in an atmosphere reminiscent of big business interests fighting over a valuable monopoly or of unscrupulous powers

<sup>1</sup> 1 R.C.L.G., p. 435; *Evidence*: Postlethwaite, M. 5 (VI, 1323); Pindar, M. 16 (V, 1364).

<sup>2</sup> 2 R.C.L.G., p. 435; *Evidence*: Pindar (VI, 1366).

<sup>3</sup> 1 R.C.L.G., p. 411.

<sup>4</sup> 1 R.C.L.G., p. 218; *Evidence*: Keen, M. 18 (IV, 719).

contending for spheres of influence in a tropical colony. Each class of local authority fought blindly and doggedly for its own power and prestige and property, with little thought for the common weal or the life and labour of the individual citizen. Occasionally a more enlightened suggestion would be submitted such as that proposals for enlarging the cities should normally be regarded as efforts for restoring the balance between the different elements required to make up a satisfactory community for local government purposes.<sup>1</sup> But gleams of public spirit were rare indeed. The various Associations representing particular classes of local authorities exemplified the worst aspects of vested municipal interests and displayed neither imaginative vision nor solicitude for the public welfare; nor, indeed, any of the qualities which might have been expected from civic bodies entrusted with the welfare of local communities. Everyone fought for his own hand. The whole discussion was unsocial in spirit from beginning to end. Not a single independent witness was called to find out what effects, in terms of municipal service, the creation of county boroughs had produced in the lives of the millions of men, women and children who live within their confines; nor ~~was~~ there any impartial investigation of the effect of city boundary extensions on the vast number of families who live in what are termed the "added areas."

The Royal Commission, being itself composed largely of persons representing, or closely connected with, the various Associations of local authorities, formed a microcosm of the conflicting vested interests, and the members did little or nothing to lift the discussion on to a more disinterested public-spirited plane. It is significant to note that the Commission recommended, as a proper interpretation of the word "desirable," when applied to a proposal for constituting a county borough or extending its boundaries, a dictum of the late Lord Oxford and Asquith, when Prime Minister, to the effect that a proposal must be desirable "in the interests of all persons concerned, and that if the interests of various local authorities in

<sup>1</sup> *R.C.L.G.*, p. 437; *Evidence*: Collins (IV, 971).



the same proposal were divergent, the question whether the proposal was desirable must be settled upon an equitable and judicial balance as between all the divergent interests.”<sup>1</sup> The reiteration of the word “interests” has an ominous ring. The insistence on the need to balance divergent interests rather than to consider the requirements of local communities seems more likely to lead to an unsatisfactory compromise than to a system of local government productive of a high standard of material and mental welfare in those living under it. To seek the social well-being of the nation or part of it is one thing; to aim at striking a “judicial balance” between the divergent interests of contending authorities is quite another.

One further point concerning city expansion may be noted in this part of our survey. This is the fact that in some cases the most strenuous opponent to the expansion of a city is not the county council whose area is directly affected, nor even the minor local authorities whose independent existence is threatened immediately or at some future date, but another county borough situate more or less in the neighbourhood of its ambitious rival. In South-East Lancashire, for example, the city of Manchester is bounded on the south and west by urban and rural districts, which it has been permitted to absorb without much difficulty. On the north-west, north-east and south-east borders of Manchester there stand, however, the respective county boroughs of Salford, Oldham and Stockport, each with its own problems, each faced with a need to develop, each conscious of an intense feeling of pride and ambition. The consequence is that when Manchester attempts to absorb a district adjacent to one of these boroughs, a similar claim is immediately made by the borough in question.<sup>2</sup> The matter is then fought out at the local enquiry held by the Ministry of Health and afterwards before a Parliamentary Committee. Much time, trouble and expense are involved, and great heat and bitterness often engendered. The procedure is costly, and

<sup>1</sup> *R.C.L.G.*, p. 463.

<sup>2</sup> E. D. Simon: *A City Council from Within*, pp. 20, 202-3.



tends to upset the ordinary work of the council by requiring much time and thought from the leading officials. In the West Riding of Yorkshire, great hostility existed between Leeds and Bradford on the subject of boundary extensions until a "gentleman's understanding" was arrived at whereby the intervening county was more or less carved up into spheres of influence marked out for future absorption. It is not surprising that, as a result of various unsatisfactory proceedings in the Manchester area, a strong feeling arose that competition between neighbouring county boroughs for the absorption of urban and rural districts was "haphazard, expensive and undignified," and that the city council appointed a special committee to consider whether some scheme of federation among the local authorities in South-East Lancashire might not be adopted.<sup>1</sup>

#### JOINT ACTION BY LOCAL AUTHORITIES

It is sometimes assumed that if the existing local authorities would only co-operate with one another more wholeheartedly all our municipal problems would automatically be solved. The degree and method of co-operation contemplated by those who make this assumption vary greatly according to the predilections of the person making it; and the notion of what is involved is not always clearly conceived.

To take one example, in the opinion of Sir James Hinchliffe, Chairman of the West Riding County Council, a simple way out of the difficulty arising from insanitary districts in the neighbourhood of county boroughs is for the local authorities concerned to come to a "common arrangement." If the district council requires drainage services from the city, and the latter can supply them, then those services should be paid for, "and it simply means, instead of all this unrest and constant disturbance of local government that they put their heads together and in the case of two neighbouring authorities agree that a certain payment shall be made for certain services rendered."<sup>2</sup>

<sup>1</sup> E. D. Simon: *A City Council from Within*, p. 205.

<sup>2</sup> *I R.C.L.G.*, p. 422; *Evidence*: Hinchliffe (III, 573).

According to the Associations of Urban and Rural District Councils, joint administration of public utilities, transport, sanitary services and town-planning is the "proper method of providing for the administration of such services."<sup>1</sup> Alderman Sir David Brooks of Birmingham, on the other hand, takes the view that while such arrangements for joint administration are undoubtedly of value, they are efficient and economical only in special circumstances. They take no account of unification of control and uniformity of working,<sup>2</sup> and can therefore by no means be regarded as a substitute for amalgamation.

There is undoubtedly a vast field of future development to be looked for in the sphere of co-operative action between local authorities. But all predictions as to the possibilities or limitations of joint action must be based on a knowledge of the facts. We may therefore briefly survey the present position in this respect.

For at least a century, and possibly longer, Parliament has endeavoured to enable local authorities to overcome the inherent disadvantages of the prevailing areas by enacting statutory provisions permitting combined action for administrative purposes of one sort or another. Local authorities have been empowered to join together for specified purposes with authorities of the same class, and with those of other classes. They have been given power to set up joint committees for dealing with any purpose in respect of which they are mutually interested.<sup>3</sup> They have been authorized to establish temporary organizations for short periods or permanent boards with a separate life of their own.<sup>4</sup> Some Acts of Parliament permit the constitution of joint bodies with independent financial powers,<sup>5</sup> others stipulate that financial power must remain in the constituent authorities.<sup>6</sup> A large number of Acts confer executive power on joint boards or committees: in others the joint functions are to be of

<sup>1</sup> *R.C.L.G.*, p. 435; *Evidence*: Postlethwaite (VI, 1323); Pindar (VI, 1364).

<sup>2</sup> *R.C.L.G.*, p. 437; *Evidence*: Brooks (IV, 880).

<sup>3</sup> Local Government Act 1894, Sect. 57.

<sup>4</sup> e.g. Public Health Act 1875, Sects. 279 and 285.

<sup>5</sup> e.g. Mental Deficiency Act 1913, Sect. 29.

<sup>6</sup> e.g. Public Libraries Act.

an advisory character only.<sup>1</sup> In certain cases Parliament has stipulated that the joint body must be composed of members of the constituent authorities, in others an express exemption from this condition has been conferred.<sup>2</sup> A whole series of enactments enables local authorities to enter into contractual agreements for joint action.<sup>3</sup>

Parliament, in short, has showered on the heads of local authorities provisions conferring the power of joint action of every imaginable variety, ranging from Local Acts designed to promote joint action for particular purposes among specified local authorities (such as the Local Acts under which the Lancashire and West Riding Asylum Boards carry on their work for the treatment of mental disease) to the great Federations of local Education Authorities contemplated by the Education Act<sup>4</sup> but not yet called into existence. Sometimes the power is permissive, as in the case of the Local Government Act 1894,<sup>5</sup> which enables parish or district councils to appoint out of their respective bodies a joint committee for any purpose in which they are jointly interested; in others it is obligatory, as in the case of joint committees for the administration of adoptive Acts, which in certain circumstances must be formed regardless of the wishes of the local authorities concerned.<sup>6</sup>

It is not uncommon to find the central government given a compulsory power of constructive intervention, as, for example, in the Housing Act, 1925, which enables the Minister of Health to make provision, by Order, for any town councils, urban district councils, or rural district councils to act jointly for the purposes of the Act, either generally or in any special case, if in his view it is expedient.<sup>7</sup> A less arbitrary power of demanding co-operation on the part of

<sup>1</sup> e.g. Town Planning Act 1925, Sect. 2 (1), ii; Electricity (Supply) Acts 1919 and 1922.

<sup>2</sup> e.g. Public Libraries Act 1892-3.

<sup>3</sup> e.g. Children's Act 1908, Sect. 108.

<sup>4</sup> Education Act 1921, Sect. 6 (2).

<sup>5</sup> Sect. 57.

<sup>6</sup> Local Government Act 1894, Sect. 53.

<sup>7</sup> Housing Act 1925, Sect. 112.



local authorities is given to the central government by the Public Health (Tuberculosis) Act 1921, which enables the Minister of Health to make such provision as appears to him necessary or expedient for the exercise by joint committees of functions relating to the treatment of tuberculosis—but only with the consent of the county and county borough councils concerned. In regard to the peremptory imposition of compulsory co-operation, however, high-water mark was probably reached by the Local Government Act of 1929, which empowers the Minister to combine, for the purposes of Poor Law administration, all or any of the municipal authorities to whom the work of relieving destitution was transferred on the abolition of the Guardians of the poor.<sup>1</sup> In most of these and similar cases the Minister is expressly authorized to apportion expenses between the local authorities concerned.<sup>2</sup>

During the past half century the legislature has continually conferred these powers of joint action without stopping to enquire as to the manner or extent of their operation, and the advantages or disadvantages of the results. No one either inside or outside Parliament appears at any time to have taken a serious interest in these potential new forms of municipal tissue, although they are of the utmost significance, whether considered as manifestations of implied dissatisfaction with the existing areas of local government or as possible lines of future development. I was officially informed by the Ministry of Health, in reply to ■ request for information, that the Minister “is not aware of any map or other document which would show the composition and territory included in any Joint Drainage Area, Joint Sewerage Area or Joint Water Area in Great Britain.”<sup>3</sup> It is something of ■ scandal that the department of state especially concerned with the public health should remain completely devoid of information relating to the commonest and most essential forms of co-operative action.

Our main interest in joint action must necessarily lie, not

<sup>1</sup> Local Government Act 1929, Sect. 3.

<sup>2</sup> See, for example, Public Health Act 1875, Sect. 286.

<sup>3</sup> Letter dated June 14th, 1929, reference Ib. 100903/29.

in the diverse forms and wide scope manifested in this connection by the legislation of recent decades, but in the functional results, if any, obtained by the operation of the provisions in question. It is, to these, therefore, that we should now turn.

It may be well to commence with a group of cases in which scarcely any use has been made of the power of joint action conferred by Parliament. Thus, the Ministry of Agriculture and Fisheries Act 1919<sup>1</sup> provides among other things for the establishment of Joint Agricultural Committees composed of county and/or county borough councils. No such body has ever been set up. The Diseases of Animals Act 1894 enables joint action to be taken by agreement between neighbouring local authorities<sup>2</sup> and extensive districts formed under the jurisdiction of joint committees. The only instance which has come to light of this power being used is in Suffolk, where the county councils for the Eastern and Western divisions of the county have set up a joint committee.<sup>3</sup> In the field of transport, we find that the Light Railways Act 1896 and the Tramways Act 1870 both authorize two or more local authorities to take joint action in regard to the construction and working of a light railway or tramways. These statutes have scarcely been used at all, there being only 4 joint bodies, operating a mileage of 35 miles, in existence at the present time.<sup>4</sup> It is more than strange, having regard to the way in which the transport needs of the community cut across the local government divisions of the country, to find so little use made of these opportunities.

Another statute of which little advantage has been taken is the Ferries (Acquisition by Local Authorities) Act 1919, which permits local authorities to combine for the purchase or acceptance, working, maintenance or improvement of a ferry. The parochialism of the rural population is even better illustrated by the lack of co-operative action between drainage authorities in

<sup>1</sup> Sect. 7 (6).

<sup>2</sup> Sect. 39 (5).

<sup>3</sup> *1 R.C.L.G.*, p. 108.

<sup>4</sup> Light Railways Act 1896, Sect. 17; Tramways Act 1876, Sect. 17;

*1 R.C.L.G.*, p. 110.

the same catchment area. "Nothing has been more striking in the course of our enquiry" observed the Royal Commission on Land Drainage "than the revelation of the complete mutual independence of the various drainage authorities over the country."<sup>1</sup> This was nearly ten years after the passing of the Land Drainage Act of 1918, which gave express powers of joint action to drainage authorities in adjoining areas. This statute, we know, is very rarely, if ever, called into use.<sup>2</sup> There is a certain consistency to be observed in the attitude of the farmers, who stubbornly refuse any form of systematic or prolonged co-operation with their fellow-farmers, whether through the Farmers' Union for the purposes of agricultural marketing and production or through the municipal authority for the wider purposes of collective activity.

It is not only in the country, however, that we find an apathetic or parochial disinclination on the part of local authorities to join together for mutual benefit. The Weights and Measures Act, 1878, enables local authorities to combine by agreement, as regards either the whole or part of the areas under their jurisdiction, for all or any of the purposes of the Act. Occasionally a town council has been persuaded to merge its administration in that of the county council, or to appoint as Inspector of Weights and Measures the man appointed for the same purpose by the county council. But such cases are exceedingly rare and on the whole the Act has been little utilized.<sup>3</sup> It is the urban areas, again, who are mainly concerned with the provisions of the Inebriates Act, which permits local authorities to combine for the establishment of ■ retreat for voluntary cases of inebriation; and with the Children Act 1908, which allows combination, with the Home Secretary's approval, for the maintenance of reformatory and industrial schools.<sup>4</sup> But urban and town councils have been extremely backward in making use of these provisions.

<sup>1</sup> *Report of Royal Commission on Land Drainage*, Cmd. 2993/1927, p. 19.

<sup>2</sup> *R.C.L.G.*, p. 112.

<sup>3</sup> *Ib.*

<sup>4</sup> *Inebriates Act 1898*, Sects. 9 and 14; *Children Act 1908*, Sect. 74.



We may pass now to spheres of activity in which a greater willingness to combine for common purposes has been displayed. A certain amount of co-operation has taken place in regard to specialized institutions, under the comprehensive arrangements contemplated by the Education Act 1921,<sup>1</sup> which permits almost every kind of joint action. Thus, the county councils of the three Ridings of Yorkshire have set up a joint committee for agricultural education; Cumberland and Westmorland, Brecon and Radnor, have done likewise. The West Sussex County Council and Chichester Town Council set up a joint education committee, while certain town and urban district councils combined to establish a single education committee through which to exercise their powers of supplying or aiding higher education. Five county councils in Wales merge their separate existences on a joint committee for the North Wales Training College. There are various other cases where joint action has been initiated in order to provide training colleges, schools for blind and deaf children, and various other specialized institutions<sup>2</sup> of an educational character. On the other hand the federations authorized by the Fisher Act of 1918<sup>3</sup> have remained a mere legislative conception, there being no case where local education authorities have entered into combination of this kind. The Education Act, 1921, imposed an obligatory duty on local education authorities for elementary education to make "adequate and suitable arrangements for co-operating with local education authorities for higher education in matters of common interest," and particularly in respect of the preparation of children for higher education, their transference at suitable ages from elementary schools to more advanced ones, and the supply and training of teachers.<sup>4</sup> But as I have already shown, there was a deplorable lack of co-operation between local education authorities for elementary education

<sup>1</sup> Sect. 6 enabled a local education authority to enter into such arrangements as it thinks proper for co-operation and combination with any other local authorities having powers under the Act.

<sup>2</sup> 1 *R.C.L.G.*, p. 107.

<sup>3</sup> Cf. Education Act, Sect. 6 (2); 1 *R.C.L.G.*, p. 107.

<sup>4</sup> Education Act 1921, Sect. 8.

and those for the more advanced stages of education, amounting sometimes to actual conflict and competition. (All this refers, of course, to the administrative system prevailing before the 1944 Act.)

The Local Government Act of 1888, which set up the county councils, empowered them from the first to join with each other or with county boroughs for any purpose of mutual interest. Some ten joint committees have been set up by county councils under this statute: two for infectious disease hospitals, three for education, and five for other purposes. The Sea Fisheries Regulation Act, passed in the same year, laid down that a Local Fisheries Committee for a Sea Fisheries District must, where two or more county councils appear to be interested, be a joint committee of those councils together with members representing the fishing interests of the district. There are at present eleven local Fisheries Committees in England and Wales, and on nine of these at least two county or town councils appoint members.<sup>1</sup> The expenditure of one of these committees exceeds £10,000 a year, that of three others lies between £1,000 and £10,000, and the remainder between £100 and £1,000 each.

The most outstanding case of compulsory co-operation is the county police, which is everywhere managed by a Standing Joint Committee,<sup>2</sup> composed as to one-half of county councillors and the other half of justices of the peace appointed in Quarter Sessions. There are also other kinds of joint action permitted in regard to the police forces. A Standing Joint Committee in one county may appoint as chief constable a person holding the same office in an adjoining county, subject to the consent of the police authority in the latter area. This arrangement has actually been put into operation in the three Divisions of Lincolnshire, and again in Cumberland and Westmorland. The police forces of the Soke of Peterborough and Northamptonshire are similarly united under one chief constable for executive purposes.<sup>3</sup> In Cumberland and Westmorland the appoint-

<sup>1</sup> Sea Fisheries Regulation Act 1888, Sect. 1 (2); 1 *R.C.L.G.*, p. 109.

<sup>2</sup> Local Government Act 1888, Sect. 30.

<sup>3</sup> County Police Act 1857, Sect. 2; 1 *R.C.L.G.*, p. 110; *Report of the Desborough Committee on the Police Service*, Part II, Cmd. 574/1920, p. 6.



ment of a single chief constable has been supplemented by an arrangement whereby questions affecting both forces are referred to a joint sub-committee containing representatives of the Standing Joint Committees of both counties. A number of county boroughs, including Bournemouth, Burton-on-Trent, Bury, Darlington, Dudley, Gloucester, Smethwick, West Bromwich and West Hartlepool are policed by the county police under agreements between the county borough council and the county police authority.<sup>1</sup>

Combined action is of very great importance in regard to electricity supply, in which large units of administration are highly desirable from every point of view. The Electricity (Supply) Act 1919 conferred wide powers of co-operation on municipal supply undertakings. Local authorities are authorized by this statute to effect arrangements for mutual assistance with regard to the giving and taking of a supply of electricity, its distribution, the management of generating stations, and the provision of capital required for carrying out such arrangements. These powers have been freely resorted to by local authorities and other bodies who undertake the supply of electricity, and have resulted in many economies being effected in the supply.<sup>2</sup> On the other hand, the power conferred by the Electric Lighting Act of 1909 for two or more local authorities to be associated together on a joint committee or board for electrical supply purposes has been little used,<sup>3</sup> only four such boards having been established under this or similar provisions. It was, no doubt, the reluctance of local authorities to combine voluntarily on a large scale for electrical supply purposes—despite notable exceptions such as the Manchester City Council—which led to the far-reaching measures for joint action introduced by the coercive legislation of 1926.

The realm in which the most extensive use has been made

<sup>1</sup> *Report of Desborough Committee on the Police Service*, Part II, Cmd. 574/1920, p. 6.

<sup>2</sup> Sect. 19 of the Act; 1 *R.C.L.G.*, p. 113.

<sup>3</sup> Sir Harry E. Haward: *Municipal Electricity*: VI—Public Administration, p. 50.



of the power of joint action is that of public health. Approximately 263 joint committees of parish councils, rural district and urban district councils have been formed<sup>1</sup> under the Local Government Act of 1894 for purposes of mutual interest. Of these, 150 consist of joint burial committees, 57 are joint committees for infectious disease hospitals, 16 are for sewerage and drainage purposes, and 9 for water supply. In addition, a further 123 Joint Boards have been constituted under the Public Health Acts, each with jurisdiction over a united district composed of two or more boroughs, urban districts or rural districts combined by order of the Minister of Health.<sup>2</sup> Eighty-nine of these Joint Boards are concerned with hospitals for infectious disease, 25 with sewerage and drainage, 2 with water supply, and the remaining 7 with other public health functions. The total numbers of joint authorities set up under these statutes or constituted under Local Acts are 154 for infectious disease hospitals, 46 for sewerage and drainage and 33 for water supply. More than 40 of them have annual expenditures in excess of £10,000.<sup>3</sup>

No aspect of public health work is of greater importance to the community than port sanitation, which is performed by port sanitary authorities constituted by order of the Minister of Health.<sup>4</sup> Most of these bodies—about 30 in number—consist of riparian authorities acting in combination through a joint board. Isolation hospitals, again, are administered in 67 cases by Hospital Committees formed by members of the county council and of the council of the district in which the hospital is situate.<sup>5</sup> Lunatic asylums are also to a large extent provided and maintained by local authorities acting in unison with one another.<sup>6</sup> The same applies to institutions for dealing with mental defectives.

The annual expenditure for the year 1924-5 of all the joint

<sup>1</sup> Local Government Act 1894, Sect. 57; 1 *R.C.L.G.*, p. 102.

<sup>2</sup> Public Health Act 1875, Sect. 79; 1 *R.C.L.G.*, pp. 96-7.

<sup>3</sup> 1 *R.C.L.G.*, p. 97.

<sup>4</sup> Public Health Act 1875, Sect. 287.

<sup>5</sup> Isolation Hospitals Act 1893, Sect. 10; 1 *R.C.L.G.*, p. 99.

<sup>6</sup> Lunacy Act 1890, Sect. 242; Mental Deficiency Act 1913, Sect. 29.

boards and committees charged with administering hospitals, sewerage systems, burial grounds and water and gas services was nearly £5 millions. Almost all this was met by revenue received from fees, rents and moneys other than rates or grants. The gross outstanding loan debt on the works and institutions in question was £20 millions.<sup>1</sup> From the financial point of view, public health is by far the most important sphere of joint activity on the part of local authorities.

From the social point of view, however, a field of greater promise and interest in which combined action takes place is town-planning. This function, which made its first appearance on the municipal horizon in 1909,<sup>2</sup> was almost disregarded by English local authorities until a few years ago. During the present decade, however, the law has been greatly strengthened and many compulsory provisions introduced;<sup>3</sup> and town-planning has become a living reality among a large number of urban and rural communities. The degree of co-operation displayed by the myriad local authorities of all classes, to be numbered by the dozen or score or even hundred, who participate in each of the several regional planning schemes which are gradually beginning to cover the country is surprising even to those who are most fully conscious of the need for large-scale combination in this inexpensive but vital municipal service. Town-planning in Great Britain is by no means satisfactory either as regards the law or its administration, but regarded purely as a manifestation of the possibilities of co-operation among local authorities it is noteworthy.

One of the reasons which make town-planning over large areas significant is that in many cases it involves co-operation between county councils and councils of county boroughs. There are instances of this in other fields, and it is refreshing to turn from the futile and unsavoury conflict between county and city which contaminates so much of their relationship to the more harmonious

<sup>1</sup> *Annual Local Taxation Returns 1924-5*, Part III, 1927. Table XII, pp. 58-9.

<sup>2</sup> See the Housing, etc., Act of that year.

<sup>3</sup> Town Planning Act 1925; Local Government Act 1929, Part II.



association which exists in some places in regard to the administration of particular services.

In Lancashire, to take one case, the treatment of mental diseases throughout the geographical county is undertaken by a Joint Board which contains representatives not only of the county council and other bodies but of every county borough council in Lancashire.<sup>1</sup> In the West Riding of Yorkshire, a considerable amount of co-operation has taken place between the county council and the city councils in regard to education. Thus, the county council has acted jointly with the county borough council of Huddersfield in building a secondary school in the city, which is managed by the two local authorities in co-operation. The expense is apportioned according to the areas of residence of the pupils. Agreements have also been made between the West Riding County Council and the county boroughs of Barnsley, Leeds and Rotherham whereby county pupils are admitted to secondary schools in any one of those cities on payment by the former of an agreed proportion of the charges falling on public funds. Reciprocal facilities are given by the county in return.<sup>2</sup>

In Lancashire the normal practice of the county education committee is to co-operate with the education committees of the county borough councils in the administration of secondary and technical education. As in the West Riding, agreements have been made between the two classes of authority for the reception in secondary and technical schools, on suitable terms of payment, of pupils whose place of residence is outside the area of the local authority responsible for the school which the pupils attend. The county council goes still farther in permitting students who are resident in the county boroughs to attend schools and lectures devoted to agricultural education organized by the Lancashire Education Committee, and provides advice on agricultural questions to residents of the autonomous cities. There are 53,000 acres of cultivated land in the county boroughs of Lancashire, but the city councils have not found it neces-

<sup>1</sup> *R.C.L.G.*, p. 357.

<sup>2</sup> *R.C.L.G.*, p. 222; *Evidence*: Sir Percy Jackson (III, 675 *et seq.*).



sary to provide agricultural education while they enjoy these facilities offered by the county council.<sup>1</sup>

Another example of the co-operation which has taken place among Lancashire education authorities consists of the voluntary association which has been formed to consider questions of educational administration affecting the county as a whole. This association contains representatives not only of the county council and all the local authorities for elementary education only, but also of all the county borough councils except four. The Association acts through its executive committee. It has so far been mainly occupied with questions of teachers' salaries, but it has also concerned itself from time to time with wider problems.<sup>2</sup> In the West Riding the county council confers, when occasion demands, with other local education authorities within the geographical county, including county borough councils.<sup>3</sup> Here again the subject of mutual interest has usually been teachers' salaries—a question which appears to possess the magical property of cementing in unison the most hardened and bitter opponents.

These examples are few in number but significant in content. They serve to demonstrate not only the possibility of combined action between county council and county borough council, but also its practicability even in present circumstances. They are sufficient to confute the hardened sceptic who asserts that the hostility and disharmony at present existing between country and town arise out of the very nature of things and cannot be eradicated without some far-reaching change in human nature or municipal ambition. They illustrate the curious way in which conflict and co-operation can exist simultaneously between the selfsame bodies in the tissue of local government. The fact that the lion can lie down with the lamb, on some occasions at least, is a fact not to be overlooked. The fact that he can lie down with a tiger is still more noteworthy.

The conclusion which emerges from this summary of the present position is that although ■ considerable amount of joint

<sup>1</sup> *R.C.L.G.*, p. 220; *Evidence*; Taylor, M. 14-16 (III, 605-7).

<sup>2</sup> *R.C.L.G.*, p. 220; *Evidence*: Taylor (III, 605).

<sup>3</sup> *R.C.L.G.*, p. 222; *Evidence*: Sir Percy Jackson (III, p. 675).

action is taking place in certain services, it is sporadic, uncertain and unsystematic. There is no function in regard to which the amount of joint action now obtaining can be considered satisfactory or as presenting a complete solution of the particular difficulties involved for the whole country. Compared with the dimensions of the problem, the solution provided by the joint action at present existing is negligible in extent although promising as a method.

We have to remember that "joint action" is a generic term which covers a multitude of separate endeavours, good, bad and indifferent. There is little information available concerning the actual areas which have been bonded together for particular purposes through joint organs of one kind or another; but there can be little doubt that many of these areas, although structurally superior to the separate units of which they are composed, are nevertheless far from satisfactory considered from the point of view of optimum efficiency.

More important, however, than the shortcomings in quantity and quality of most of the attempts at joint action which have actually been made is the large number of cases where no use whatever has been made of the powers of co-operation conferred by Parliament. The sins of omission on the part of local authorities in this respect are far more serious than the sins of commission. We must conclude without hesitation that no opportunity for co-operation in municipal affairs is likely to be used on a widespread scale unless it includes legal powers of enforcement and some machinery for supervision by a central government department armed with the necessary knowledge and extended vision required to envisage the country as a whole.

This is not to say that all initiative and scope for spontaneous combination is to be taken away from the local councils. It means only that somewhere in the background there must exist a national authority, armed with powers of compulsion and inspection, authorized to step in and insist upon co-operation in those cases where it is necessary but in which local authorities are too narrow-minded or apathetic or ignorant or reactionary to make a voluntary move in that direction of their own motion.

## II CONSTRUCTIVE

### THE NEED FOR RECONSTRUCTION

THE foregoing pages have been devoted to a somewhat lengthy analysis of the difficulties and defects inherent in the present structure of local government, and to an examination of the principal factors which must be taken into account in any attempt to improve the constitutional machinery of municipal administration.

Is it possible, after such a survey, to agree with the Onslow Commission when they complacently remark that the system of local government is "flexible and responsive to the facts of growth and change"?<sup>1</sup> Can we agree with them that local authorities "are continually adapting themselves, or being adapted by Parliament, to new functions which Parliament imposes upon them"?<sup>2</sup> Can we accept the comforting assurance that "the constitution of local authorities may perhaps be regarded as substantially settled"?<sup>3</sup>

I suggest we cannot. In my opinion the structure of local government is obsolescent and in grave need of reform. It is groaning under the immense burden of powers and duties which it is now required to carry. We have, it has been pertinently remarked, loaded the wagon without adding a horse. The functional results which the structure is now yielding are so demonstrably unsatisfactory that something in the nature of a crisis is almost certain to occur unless a coherent scheme of adjustment is put into operation at an early date.

No one is specially to blame for this state of affairs. It has arisen largely because Parliament has continuously showered new and unforeseen powers on the heads of local authorities unfitted by nature and design to exercise them.

One feature of the situation which especially reflects the chaos

<sup>1</sup> *R.C.L.G.*, p. 14.

<sup>2</sup> *Ib.*, p. 13.

<sup>3</sup> *Ib.*, p. 11.



that prevails is the distribution of functions between the county council on the one hand and the county district councils, whether in urban districts, rural districts or boroughs, on the other. The allocation of functions between these authorities is so devoid of plan or order as to appear almost anarchical. Thus, there are functions which the county council is either required or permitted to exercise throughout the whole area of the administrative county, excluding the county borough areas. Some of these are obligatory, such as the provision of education or the maintenance of county bridges, others are permissive, such as the acquisition of land for parish allotments or the protection of wild birds. Then there are functions which may be exercised by the county council over the whole or part of the administrative county, or alternatively in some or all areas by the minor authorities, regardless of size. These are all permissive functions, and include, for instance, maternity and child welfare work and the provision of public libraries. A third category of functions consists of those which may be exercised concurrently both by the county council throughout the whole area, and by the county district authorities within their districts. These again are permissive, and include the prevention of river pollution, the promotion of Bills in Parliament and so forth. In the fourth place there are functions which the county council may exercise in certain parts of the county and other local authorities in other parts. A fifth class of functions consists of those reserved to counties attaining a certain size: in the case of electricity supply, financial assistance can be given by a county council to a joint electricity authority only where the population of the county exceeds 50,000. A sixth type of function consists of those in regard to which the county council has jurisdiction in default of a district authority. There are a large number of these, ranging from the administration of the Milk and Dairies Acts to the enforcement of sanitary conditions in dwelling-houses. Lastly, there are certain public health functions of a supervisory nature which the county council may exercise throughout the administrative county.

Could confusion be worse confounded? Neither plan nor coherence can be discerned in this formless scattering of powers. The result is ■ mere conglomeration without theoretic advantage or practical benefit. The well-known predilection of the nation for "muddling through" has been indulged to the full in its local government structure, with consequences which are no longer tolerable in ■ world of increasing complexity. The present welter can scarcely be the last word in municipal architecture or constitutional design.

The task of criticism is, however, always easier than that of construction, and I am fully aware that the work of improving the municipal structure is likely to prove full of doubt and difficulty. It must nevertheless be attempted. In our present civilization progress is ■ condition of stability.

We may remind ourselves at the outset that, strange though it may seem to many persons who are immersed in municipal affairs, all our local government authorities and administrative divisions exist solely in order to promote good government, and for no other purpose. This simple truism sounds so obvious that it scarcely seems worth stating; yet there are few political platitudes more frequently forgotten or more continuously needed to be borne in mind. Its acceptance compels us to deny the validity of all contentions based on considerations other than the welfare of the present generation and its successors. We must ignore the appeal to historical tradition, if the continuance of a tradition involves the sacrifice of the contemporary interests of living men and women. We must override all arguments addressed to vested municipal interests, however honest and free from financial corruption their sponsors may be, whenever they conflict with the public good. We must evaluate municipal government in terms of the service rendered to communities of citizens rather than in terms of the pride and pomp of councillors. Interpreted in this way, ■ simple maxim such as this may become a light that shines in darkness.

What we need most, however, are not simple maxims, no matter how excellent, but principles which will enable us to prescribe definite remedies for particular ills.



Owing to the complexity of the problem that confronts us, it is extremely difficult to lay down general principles. But although difficult, it is not impossible, and difficulty is no excuse for evasion. We must not be led astray by the so-called "practical business man" or administrator who says in effect: "Yes, I agree that the present position is unsatisfactory. But don't let us bother about high falutin' theories. All we need do is to take the country bit by bit and do what is wise and reasonable in each case." An invitation of this kind seems to offer a most attractive opportunity to plunge into practical activity of a satisfying kind without enduring the toil and sweat involved by a search for principle and the attempt to obtain foreknowledge of cause and effect.

But there is no escape from the need for intellectual realization, once the aim of conscious control over the environment has become the goal of endeavour. It happens that the world is so made that there are definite reasons which make a certain course of action wise and reasonable in one case, and unwise and unreasonable in another. And if we do not comprehend the reasons for our actions, it is exceedingly unlikely that those actions will be either wise or reasonable. It is not enough to be wise. We must know why we are wise.

Hence there arises the need to discover general principles on which action can be based in particular cases. Hence, again, all such efforts as the recommendations contained in the Second Report of the Royal Commission on Local Government (subsequently embodied in the Onslow Clauses of the Local Government Act of 1929), which merely set up the machinery of reform, without providing any indication of the principles on which that reform should proceed, are not likely, taken by themselves, to be of fundamental use in the difficult task of reconstruction.

The Royal Commission found that a review of areas should be undertaken "in order to see how far ineffective units can be eliminated by reorganization."<sup>1</sup> They accordingly recommended a general review of the existing county districts and

<sup>1</sup> 2 R.C.L.G., p. 15.



parishes within a specified time, and subsequent general reviews from time to time "as they become necessary." Every local authority concerned in the review is exhorted to consult every other local authority likely to be interested; the Minister of Health is also to be consulted at every turn of the proceedings, and local enquiries frequently arranged. But there is little indication of the aims of all this pother and commotion.

The Minister of Health, it is true, had suggested certain principles which might be followed in reorganizing the municipal structure.<sup>1</sup> The three main conditions which he proposed should be laid down were: (1) that any proposal for change should be directed to encouraging the confidence of the local citizens in their councillors, and their active interest in municipal elections and administration; (2) that "due regard should be paid to the history and prestige of the form of local government at present applied to the areas affected," and to the sentiment with which it is regarded by the inhabitants; (3) that as far as possible areas should be so determined as to provide local authorities willing and able to discharge the functions assigned to them in such a manner as to secure the fullest possible return for the time and money spent on the work.

It is impossible to quarrel with these modest generalizations. The only objection that can be raised is that they fail to provide sufficient guidance of a concrete nature, and make no mention of the critical problems in the situation to which attention has been directed in the preceding pages. It is, as a matter of fact, excessively difficult to discover any exact content in these somewhat insipid aspirations of the Ministry of Health. What are the changes likely to encourage the confidence of the citizens in their councillors? What degree of consideration amounts to "due regard"? How far should historical boundaries be permitted to override the demands of efficiency? What changes are likely to produce competent authorities anxious to discharge their duties? What is to be done about the conflict of town and country? And overlapping authorities in the

<sup>1</sup> 2 *R.C.L.G.*, pp. 9-10.

counties? And the unsatisfactory design of present areas? On all these questions the Ministry is discreetly and demurely silent.

### COMBINED AREAS

The period before 1835, an American writer has observed, was one in which the chartered towns of England were veritable city-states.<sup>1</sup> If this remark is intended to mean that before the passing of the Municipal Corporations Act of 1835 the boroughs were independent and politically self-contained communities to a degree never subsequently attained, there is a good deal of truth in the observation, though one is bound to add that any suggestion of an analogy between unreformed Manchester in the early nineteenth century and Athens in the fifth century B.C. is scarcely flattering to ancient Hellas.

Despite immense developments in the scope of municipal activity, the conception of the great town as an independent city, meeting other cities on the basis of freedom and equality, has continued unchanged. This, at bottom, is the explanation of the great holes torn out of the geographical counties by the county boroughs. The holes have been growing larger in size and increasing in number, but the basis of the structure and the essential status of the largest cities of Britain rests in the present century on substantially the same principles as those that served for city government fifty years previously. The large increase of functions has been met by the multiplication of committees and sub-committees.<sup>2</sup>

In somewhat the same way, but with less historical justification, the counties have regarded themselves as county-states, proud, independent, resentful of interference from without.

<sup>1</sup> Ernest S. Griffiths: *The Modern Development of City Government* (1927), vol. i, p. 31.

<sup>2</sup> In 1900, Liverpool, Leeds and Birmingham had 45 committees. By 1910 the number had increased to 58 (with 126 sub-committees); by 1922 to 71 (with 188 sub-committees). Glasgow had, in 1922, 45 committees, either standing or special, divided into 75 sub-committees; Sheffield in the same year had 24 committees, with 91 sub-committees. By 1923 no less than 15 committees were prescribed by statute. (Ernest S. Griffiths, *op. cit.*, vol. i, p. 379). For more recent figures, see G. Montagu Harris: *Municipal Self-Government in Britain* (1939) Chapter IV.



The cities have at least extended and rectified their boundaries, but the counties would appear to have tacitly agreed to preserve the settlement of 1888 for all time.

We have never seriously asked ourselves whether the areas which were regarded as more or less suitable half a century ago for the purposes of highways, police and sanitation are also suitable for such different services ■ education, maternity and child welfare, and housing. As a matter of fact, it is abundantly clear that the present areas are in many cases suitable neither for the old services nor for the newer ones. The days of both city-state and county-state are numbered.

A great mass of evidence has been marshalled in the preceding pages to show that for a number of services we need authorities having jurisdiction over areas larger than any of the existing counties or county boroughs. If we examine the demands for larger areas put forward by official committees and various disinterested experts, or survey the territories comprised in the most promising developments in electricity, town-planning and numerous other services, we shall find that what is required is not ■ single set of areas, however large or comprehensive, but a whole series of different areas for separate and distinct purposes. There is no division of the country which will suit all municipal functions.

In the case of land drainage, for example, the paramount need is for a controlling authority in charge of the whole course of the main channel of ■ principal river, including its bed and banks.<sup>2</sup> For this reason the Royal Commission on Land Drainage recommended that the proper drainage unit is a Catchment Area, which they defined as the whole of the land which directs the drainage towards one river, ending in the sea.<sup>2</sup>

The Land Drainage Commission proposed that for every such district delimited by the natural configuration of the land, there should be set up a Catchment Area Authority to act as

<sup>1</sup> *Ib.* In some cases a tributary stream, especially when it discharges into a main river near the estuary, may be of sufficient magnitude and importance to justify being made a separate Catchment Area.

<sup>2</sup> *Report of Royal Commission on Land Drainage*, Cmd. 2993/1927, p. 24.



the sole drainage authority for the main channel, banks and bed of river from source to mouth.<sup>1</sup> Such a body would carry out all drainage works in the waterway and have power to enter into arrangements with port, harbour, conservancy, or other authorities for the regulation of the tidal portion of the main river<sup>2</sup> in the interest of land drainage.

The Catchment Area Authority would be a body consisting of representatives of the county council or several county councils within the catchment area, whether touching the main channel of the river or not, together with representatives of the councils of county boroughs situate within the area and of certain other interests. The urban districts and non-county boroughs were to be expressly excluded from participation.<sup>3</sup> All the powers conferred by general legislation on the counties and cities would vest in the new combined authority. The whole arrangement would be enforceable by the central government. County and county borough councils would be required within a specified period to prepare schemes for the constitution of Catchment Area Authorities and submit them for approval to the Minister of Agriculture and Fisheries. The Minister would have power to proceed alone in default of action by the local authorities. "It is of the utmost importance," the Commission declared, that "it should be compulsory and not merely permissive to set up Catchment Area Authorities."<sup>4</sup> These recommendations have in the main been embodied in the Land Drainage Act 1930.

Far less definite in character are the areas suggested for water supply purposes, mainly owing to the fact that our knowledge is incomplete. Demands have for long been made for a national allocation of water resources, partly in order to guard against the spasmodic but not infrequent danger of drought, partly in

<sup>1</sup> With an extension of the "area of benefit" so as to comprise the whole of the hereditaments in the catchment area of the river. *Ib.*, p. 18.

<sup>2</sup> *Ib.*, p. 26. The Royal Commission made other recommendations relating to the internal drainage systems within the Catchment Area, but we are not concerned with these here.

<sup>3</sup> *Ib.*, pp. 927-8.

<sup>4</sup> *Report of Royal Commission on Land Drainage*, Cmd. 2993/1927, p. 25.

order to overcome the difficulties resulting from higher standards of civilization.

Any allocation which is to be of practical use, we are informed by the Advisory Committee on Water of the Ministry of Health, can be made only after a great deal of investigation.<sup>1</sup> But it is clear that the existing areas are entirely inadequate, and the Committee recommended that Regional Water Committees should be formed to ascertain the needs of each of the separate districts and to adopt a definite policy designed to meet their requirements. In this way a national policy could be based on fact instead of on surmise. The water regions will in some cases be extensive, in others consisting of the areas of only two or three authorities. The Regional Water Committee would consist of representatives of each local authority or water undertaker in the area. Its duties would be of an advisory character only, the main object being to formulate a programme for meeting, in an economical manner, the present and prospective water needs of the area for ■ considerable period ahead.<sup>2</sup> It was not until 1945 that legislation was passed empowering the Minister of Health to constitute Regional Water Advisory Committees on these lines.<sup>3</sup>

A similar statement can also be made in regard to river pollution. The Advisory Committee on River Pollution has definitely recommended the establishment of bodies specially charged with the administration of the Rivers Pollution Prevention Acts throughout the whole or the greater part of a river basin.<sup>4</sup> These bodies should consist of county and county borough councils, as in the case of Catchment Area Authorities. But their jurisdiction would not necessarily extend over the same area, for in the case of river pollution the authority charged with prevention should obviously have control over all the tributaries of a river, whereas in regard to land drainage this

<sup>1</sup> *Regional Water Committees* 1928 (H.M. Stationery Office), p. 3.

<sup>2</sup> *Ib.*, pp. 4-6.

<sup>3</sup> Water Act, 1945. See *Hansard*, Commons, 21st Feb., 1945, cols. 815-838. White Paper on Water, 1944.

<sup>4</sup> *Report on the Joint Committee on River Pollution* 1928, pp. 6-7.



need not always be the case. Furthermore, land drainage may necessitate the regulation of the tidal portion of a river, whereas in river pollution a sharp distinction can be drawn between tidal and non-tidal waters.<sup>1</sup>

If we turn to electrical supply we find that an entirely different division of the country appears to be desirable. Without ■ considerable knowledge of electrical engineering it is not possible to appreciate all the technical considerations involved in determining the type of area best suited for electrical generating purposes. But it is clear from the reports of the Weir Committee and the activities of the Electricity Commissioners, that very large areas are necessary for optimum efficiency in supply. The schemes prepared by the Electricity Commission, and adopted by the Central Electricity Board, comprise territories so large that whole counties appear mere parishes, and large towns scarcely more than villages.

What we should particularly notice, however, is not only the size of these electricity areas, but also their leading characteristics. In the past, the Electricity Commissioners point out, it was the urban centres that presented the main objective of the electrical supply industry. There was little incentive to embark on the electrification of the sparsely populated rural areas,<sup>2</sup> where the distances are much greater, the potential load not high, and the spending capacity of the people lower than in the towns. Now, however, as a result of the progressive occupation and development of the various urban and suburban centres and of the extension of areas of supply into neighbouring districts, an increasing proportion of the rural population has been brought within potential range of an electrical supply service.<sup>3</sup>

The present incentive to rural electrification has been largely stimulated by the notable developments in connection with housing schemes and building generally which have taken place in many rural areas during the post-war period, and by the

<sup>1</sup> *Ib.*, pp. 6-7.

<sup>2</sup> *Eighth Annual Report of the Electricity Commissioners 1929* (April 1st, 1927, to March 31st, 1928), p. 7.

<sup>3</sup> *Ib.*



great increase in transport facilities, both of which have tended to encourage the removal of residents and industries from the congested centres of population.<sup>1</sup> The result, in terms of electric supply areas, is that rural communities must be grouped round the great urban aggregates in order that they may receive their electricity supply in the evening from generating stations which are working during the day to supply power for industrial purposes. The results already attained by a number of undertakers who are operating outwardly from urban centres indicate that a considerable measure of rural electrification is economically possible in cases where the rural load can be developed as a supplement to the urban load.<sup>2</sup> This clearly points to a large amount of combination between local authorities, not only in regard to the supply of electricity, but also in respect of its distribution. The problem of distributing electrical power on efficient and economical lines has scarcely been touched up to the present, but it is certain to become of increasing importance.

I have already dealt at some length with the disadvantages arising from the duplication of education authorities and the splitting up of the education service into watertight compartments unrelated to the facts of human life and growth, which existed until the Act of 1944 made county councils local education authorities for all purposes. This measure does not, however, by any means settle the problem of what areas are desirable for educational purposes.

The new outlook in education requires that an entirely new nomenclature and organization shall be introduced into the national system of education.<sup>3</sup> Instruction up to the age of 11+ would be called primary; that after 11 would be termed secondary. The schools dealing with post-primary education should include, in addition to Junior Technical and Trade institutions, at least the following main types:—

(1) Schools of the type formerly called "Secondary" (now to

<sup>1</sup> *Ib.*, p. 8.

<sup>2</sup> *Ib.*

<sup>3</sup> See the pamphlet entitled "The New Outlook in Education," issued by the Ministry of Education. Published by H.M. Stationery Office.

be known as Grammar Schools) in which a predominantly scientific or literary curriculum would be taken by children remaining to at least 16 and perhaps 18 years of age.

(2) Schools of the type now known as Selective Central Schools (in future to be called Modern Schools) at which a course of not less than four years' duration would be given to children of 11+, with a realistic or practical trend for the last two years.

(3) Schools similar to the existing non-Selective Central School (also to be called Modern Schools) catering for children between 11 to 14+ or 15+. Such schools might be either the only central schools in the area, or they might exist side by side with Selective Central Schools and take children not seeking admission to the latter.

(4) Senior classes, Central Departments, Higher Tops and so forth (to go by the generic name of Senior Classes) giving advanced instruction for pupils of 11+ in those places where it is impossible to provide schools of the above-mentioned types.<sup>1</sup>

With these different types of schools available for children of varying capacities, the first intellectual "cream-off" would go to the grammar schools and remain until 17 or 18 years of age; the second "cream-off" would enter the Selective Central Schools and stay until 15 or 16; the residue would attend non-selective central schools or Senior Classes until school-leaving age at 15+. It is not suggested that these latter institutions should be inferior to the grammar schools. They would be different in scope and purpose, in order that every child should have the type of education he or she can most profitably receive.

It is obvious that a progressive and far-reaching policy of this sort requires large areas for its realization. It is utterly impossible for small education authorities to provide the necessary range and variety of institutions. Accordingly, the Hadow Committee unanimously declared that the large problem of providing a general system of post-primary education in all the alternative forms which are necessary can never be solved or duly co-

<sup>1</sup> Education of the Adolescent. *Report of the Hadow Committee*, pp. 77-80, 95-6.



ordinated with the provision of the "secondary" schools at present existing "unless and until a large and comprehensive authority is instituted and empowered to deal with the large and comprehensive duty which lies upon the community." Such an authority, they conceive, "will, in the majority of cases, have to be broader than the geographical county, all the more as county boundaries, over which children must often pass to reach the place of education best suited to their needs, already raise difficult problems." They look forward accordingly to the institution of a few large authorities, each of which would represent some grouping of contiguous authorities united by common characteristics and common needs. They recommend that consideration should be given to the question, "whether it might not be a desirable objective of educational development that provincial authorities for education should be instituted, in which the authorities for elementary education only and the authorities for higher education should both be ultimately merged."<sup>1</sup>

While no attempt need be made here to indicate the precise areas over which these provincial authorities should exercise jurisdiction, it might be expected that in each case a university or university college would form the pivotal centre of the whole system—though, let us add, it is important that the universities should never themselves fall under the control of local education authorities, however large or comprehensive.

A similar need for the grouping of local authorities into large combinations involving the association of several counties and county boroughs, was disclosed by the recent investigation of the Public Libraries Committee.

Every kind of public service, the Committee points out, is peculiar in the degree to which it lends itself to organization on a large or small scale. In regard to certain commodities and services which are the subject of municipal enterprise there is a direct ratio between the number of inhabitants and the amount of service or commodity required. A town of 500,000

<sup>1</sup> "Education of the Adolescent." *Report of the Hadow Committee*, p. 165.



inhabitants will require roughly ten times as much gas or electricity or water as ■ town of 50,000, and ■ hundred times as much as a town of 5,000. This rule does not hold good in the library service.<sup>1</sup> Every community having approximately the same standard of education requires access to a library of approximately the same magnitude. The general reader in ■ small town is not half ■ general as the general reader in ■ town twice as large.

In order, therefore, to assimilate in some measure the reading facilities offered in one area to the choice of books available in another area, it is necessary that ■ national system of public libraries should be built up. To this end, the Committee recommended, an extensive linkage of neighbouring library authorities should be effected by means of voluntary co-operation between county councils and the councils of towns and cities; through the grouping of public libraries round regional centres, which will generally be the great urban libraries; and by means of a federation of special libraries, pooling their resources in the service of research; and, lastly, by ■ central library acting as a centre of the whole system.<sup>2</sup>

The need for large areas of survey, design and control in town-planning is so obvious that nearly all the town-planning schemes at present in operation have been formulated on a regional basis, and comprise groupings of many local authorities for this end. These town-planning regions have little or no relation to the areas delimited for the purposes of land drainage, electricity or education.

The main characteristic of the best type of town-planning region is ■ “conurbation” consisting of a large industrial centre or heart surrounded by residential towns or suburbs which thin out gradually into a belt of agricultural land or pasture. Open spaces, main roads and the regulation of building development are the dominant controls in present-day town-planning; and these factors accordingly play an important part in determining the ideal area. Transportation facilities, housing needs and

<sup>1</sup> *Report of the Public Library Committee*, Cmd. 2868/1927, p. 31.

<sup>2</sup> *Report of the Public Library Committee*, Cmd. 2868/1927, p. 151.

social coherence are essentially relevant, and their bearing on town-planning is likely to be more and more appreciated. There is at present no regional planning for housing, with results that are sometimes disastrous.<sup>1</sup>

If we consider the best areas over which to provide transportation services, or for the purposes of highway administration, special factors peculiar to the problem clearly arise. The movement of goods<sup>2</sup> and passengers over the roads, the daily tidal wave of population, the physical configuration of the land: these and many other considerations must obviously demand attention.<sup>3</sup> It is not, however, necessary to elaborate in any further detail the varying needs of particular services in regard to the type and size of areas demanded by each. Lunacy and mental deficiency, tuberculosis and venereal disease, certain kinds of animal disease, all these require the grouping together of counties and cities into large combined units.

Broadly speaking, the need for administering such services as town-planning, planning for housing, main roads and transportation by combined authorities operating over areas larger than those at present existing, arises from the improved methods of communication now available. The extension of the distance travelled daily by vast numbers of men and women is one of the dominant features of our time. It is clear that the enlarged area of diurnal movement brought about by improved railway

<sup>1</sup> Thus there are immense disadvantages attaching to the acquisition by the London County Council of Becontree in Essex for the great housing estate which it has established there. One disadvantage is the conversion of the best market-garden land near London into working-class dwellings, although land of much less agricultural value was available near by. The difficulty of obtaining ■ supply of fresh fruit and vegetables for the vast population of London is already sufficiently acute without adding to it. But in any case it was unwise to house the black-coated workers on the east side of London, where transport facilities to the commercial quarters of the City ■■■ extremely poor. Such land should have been reserved for the dockland workers whose place of employment is already on the east side. Serious mistakes of this kind would almost certainly be avoided if planning for housing on a large scale was a function actively carried out by regional town-planning authorities. See my *Government and Misgovernment of London*, Part III.

<sup>2</sup> Cf. E. D. Simon: *A City Council from Within*, p. 210.

<sup>3</sup> Cf. The Road Transport Act 1930 and the regions formed thereunder for the licensing of public service vehicles.



services, the electrification of local and main lines, the coming of motor-bus and electric tramway, trackless trolley and underground tube, by the cheapening of motor-cycle and motor-car, must produce a formative influence on our local government structure. There can be no wisdom in attempting to disregard or ignore the administrative and political implications of this enhanced mobility.

Another group of functions demand areas of larger size for an entirely different reason. Health services such as lunacy and mental deficiency, tuberculosis and venereal disease, require a very high degree of specialized treatment if the best results are to be obtained in difficult cases. Specialists of high calibre, and specialized institutions equipped in an up-to-date manner, are far too costly to be provided by any save large and wealthy areas. Nor are they likely to be fully employed unless their patients are drawn from a very large district. It is not an accident that the largest and most progressive counties have led the way in combining with the great cities in the provision of curative institutions of certain kinds.

Whatever the causes may be, it is abundantly clear that separate areas are needed for different municipal services, if the best results are to be obtained. The determination of areas for land drainage proceeds on entirely different principles from that relating to public libraries. There is no single division of the country which is suited both for electrical supply and mental deficiency.

It would appear from this that such organs of government as the Catchment Area Authorities for land drainage, the River Boards for preventing pollution, the Regional Committees for water supply, the Joint Undertakers in electricity supply schemes, the Provincial Authorities for education, the Town Planning Committees—the names vary almost as much as the areas—must be composite bodies consisting primarily of county councils and county borough councils welded together into mutuating groups for particular purposes. Whether the resultant units consist exclusively of members of the constituent municipal authorities, or partly of nominated or co-opted elements,



is relatively unimportant. The essential principle is that diverse areas should be built up from certain more or less stable basic units.

The only possible alternative to this plan, apart from centralized administration, would be to establish a number of separate bodies elected or nominated *ad hoc* without reference to the general local authorities now existing.

But all experience is opposed to *ad hoc* elected bodies. The main lesson of the nineteenth century, so far as local government is concerned, is that for the purpose of creating a vital connection between council and citizen, and maintaining a substantial reality in the democratic process, the general local authority responsible not for one particular service but for many, is the best of all possible devices and the only successful solution.

It may be true that we shall gradually return to a kind of *ad hoc* system of local government, in which all the main services will be carried on by federal bodies of which the separate elected councils will form but constituent parts without independent power. But such *ad hoc* government will be moulded on an entirely different pattern from that typified by the local Boards of Health set up by the mid-Victorian Public Health Acts, the School Boards, the Guardians of the Poor, and so forth. The elected authority, whether town council or county council, will remain the pivot and centre of gravity of the whole system, and the councillors will be elected, not for service in this or that department of municipal activity, but to represent the generality of citizens throughout the entire realm of local government. The omnibus authority will remain an essential feature of the system.

It is sometimes said that joint or federal authorities are unsatisfactory from a democratic point of view because they are conservative and out of touch with public opinion. This may be true in certain cases at present, but I do not accept it as a valid criticism of the types of combined authority which I have proposed above. What frequently happens at present is that only the older members of the constituent authorities, such as aldermen and chairmen of committees, are allowed to serve on the joint bodies. In other cases, persons of an unrepresenta-

tive type are nominated or co-opted. Such practices as these are easily remedied. So far as public opinion is concerned, I do not believe it will be less vitally interested in the activities of such combined authorities, once it realizes that they administer the most important services, than in the work of the separate councils.

### THE UNIFICATION OF EXECUTIVE POWER

The character of the Combined Authority will not be uniform either as regards constitutional status or legal power. I have already shown the immense variety of forms which can be found in the present legislation regulating joint action. There is little doubt that Parliament has been wise in adapting the form in which joint action may take place to the individual needs of the particular service.

The same applies to the larger and more comprehensive combinations which are contemplated. In some cases ■ mere joint committee without independent financial power will be sufficient; in others ■ much more drastic delegation of authority will be necessary.

There is clearly a great difference between identic action by a number of co-operating units and unified action by a single executive organ exercising jurisdiction over the whole combination. It is not possible to say that the one method is invariably superior to the other. It is merely different, and yields different results. Where the adaptation of general principles to local needs is specially required, separate administration by the co-operating units has many advantages. On the other hand, there are many services where large and expensive works or institutions are required in pursuance of the common policy of the combining units. Here the exigencies of the case can be met only by the concentration of power in a unified executive.

It is quite certain that the "friendly consultation" beloved of those who believe "getting round a table" or "bringing the parties together" to be an infallible solution of all difficulties, whether political, administrative or industrial, is insufficient to overcome many of the problems which confront our municipal life. Definite changes in organization will frequently be required.



The Desborough Committee on the police service, after reviewing the various places where adjoining counties or cities had placed their police forces under the control of a single chief constable, observed that in all these cases each force still retains a separate Standing Joint Committee possessing ultimate executive authority. "The necessity for reference to two, three or four separate police authorities," they remarked, "is liable to lead to difficulties and delay in arriving at decisions."<sup>1</sup> The Committee therefore declared themselves strongly in favour of enlargement of the units of police administration. "We consider it desirable," they continued, "that small county forces should be grouped with one another or with an adjoining large force, and that there should be not only a single chief constable but also a single Joint Police Authority consisting of representatives from all the counties or boroughs in the group."<sup>2</sup>

In town-planning, the tendency has been for co-operating authorities to appoint a joint committee with advisory powers only, although the law empowers them to confer all or any of their administrative powers on such a body, without restriction. In practice, however, the execution of schemes, as distinct from the preparation of plans, has usually been left to the constituent local authorities acting separately.

There are, however, various disadvantages arising from this course. In the first place, where large regional open spaces and arterial roads are contemplated, it is essential that responsibility for financial compensation in connection with the acquisition of land should be assumed by all or several of the local authorities comprised in the scheme. In the case of the Manchester and District Regional Planning Council, a large number of the roads and open spaces recommended by the council are situated in rural districts. In one rural district alone more than 40 miles of new roads and several open spaces, making a total area exceeding 1,000 acres, are foreseen. No rural district council

<sup>1</sup> *Report of the Desborough Committee*, Cmd. 574/1920, p. 6.

<sup>2</sup> The Police Act, 1946, facilitates amalgamation of county and county borough police forces; and authorises the Home Secretary to make schemes for this purpose in default of voluntary schemes.



can meet an expenditure of this magnitude out of its own resources, and if the plan is to be carried out the cost of many local improvements will have to be borne by neighbouring authorities likely to derive special benefit therefrom.<sup>1</sup> In other cases, the region as a whole must share the financial burden.

Similar problems are presented in connection with other fundamental region-planning requirements. In regard to sewer drainage, for example, it is extremely difficult to get the local authorities situated in an area which should obviously be drained upon regional principles, to undertake schemes with this object in mind. Their consideration of such questions, observes the Honorary Surveyor to the Midland Joint Town Planning Advisory Council, "is naturally overshadowed by the financial factor."<sup>2</sup>

The need for a common purse is by no means the only reason why concentrated executive power is desirable in carrying out planning schemes over large areas. Unified authority is in many ways more economical than identic action by the constituent local councils. It enables a highly-trained staff to be engaged for work requiring special qualifications. It provides a common standard of enforcement and ensures that the main objects of the scheme shall not be undermined by the numerous exemptions which small authorities are sometimes only too ready to grant. Above all, it gives to the scheme strength and certainty which may otherwise be lacking, since there is no way of compelling the separate local authorities to carry out the common plan if their determination weakens or their public spirit diminishes.

That these advantages cannot be obtained by identic action may be seen from the experience of the Midland Joint Town Planning Advisory Council, a body covering a vast area of 1,700 square miles and embracing no less than 65 different

<sup>1</sup> E. D. Simon: *A City Council from Within*, p. 213.

<sup>2</sup> *Regional Planning Councils*: ■ Paper read to the Annual Conference of Municipal and County Engineers held at Buxton, June 20th, 1929, by Mr. Herbert Humphries, City Engineer, Birmingham. *Local Government Journal*, June 22nd, 1929, p. 384. See also *Report of Royal Commission on Land Drainage*, Cmd. 2993/1927, pp. 18 and 27.

local government authorities. A serious difficulty which has impeded the work of this Council is that suggested deviations of existing main roads to by-pass towns and villages have been put forward by county councils and approved by the Town Planning Council, but do not meet with the approval of the rural district councils through whose districts the deviations would run. In consequence, we learn on high authority "some of the most important regional proposals are endangered."<sup>1</sup> Trouble of a similar kind has been experienced in regard to parkways, traffic routes, zoning and regional recreation areas serving the districts of several adjacent local authorities. These and other cases furnish illustrations of the difficulties encountered in attempting to obtain the unanimity of opinion which is necessary if the separate councils are to be persuaded to incorporate such proposals in the town-planning schemes for their respective districts.<sup>2</sup>

Various devices are being gradually evolved to prevent the frustration of imaginative planning by the half-hearted and reluctant enforcement of a scheme, or even active opposition to its adoption, by individual local authorities of small size and smaller outlook. Sometimes, as in the case of the Rotherham area, the Regional Advisory Committee appointed to prepare a scheme has been afterwards reappointed as an executive body to carry it out. In other cases, as in Manchester, a number of Statutory Joint Town Planning Committees have been set up with executive powers to carry out the regional plan. These statutory bodies administer areas smaller than the region but much larger than those comprised in the separate local authorities.<sup>3</sup> A further development is to distinguish purely local or "domestic" planning schemes from the large regional conceptions, and to delegate the former to the individual local authorities while retaining responsibility for the latter in the hands of unified executive committees acting for the whole region.

All these examples clearly show that, although combination

<sup>1</sup> Humphries: loc. cit.

<sup>2</sup> Humphries: loc. cit.

<sup>3</sup> E. D. Simon: *A City Council from Within*, p. 212.



for advisory purposes only may suffice to obtain a good result in certain services, such as water supply,<sup>1</sup> in the case of other functions the grouping of areas must be accompanied by the concentration of executive power in the hands of a single authority having jurisdiction over the whole area.

One factor which requires consideration in this connection is the question whether the service to be administered is one in regard to which the public is likely to hold strong views. So far as the purely technical services such as water supply or electricity or sewerage are concerned, technical considerations are paramount and all that need be taken into account, in determining the form of combination between local authorities, is administrative efficiency. In such cases, there is no objection to the creation of a new entity, such as a joint board or council with independent powers. On the other hand, there are some services in which public opinion plays an important part—education, for instance. In such cases the demands of administrative efficiency must yield, where necessary, to the higher expediency of ensuring the “consciousness of consent” among the citizens. This means, in terms of organization, that the combination of authorities must be established in a federal form. Only in this way can the machinery of government be kept responsive to public opinion in the localities.

#### PRIMARY ELEMENTS IN THE STRUCTURE

It will be clear from the foregoing suggestions that the primary elements of the municipal structure which is contemplated will consist of county councils and county borough councils. These bodies will be grouped together for various purposes into a number of combined authorities, whose areas will vary according to the function to be carried out.

It must not be assumed from this that the counties can be regarded as ideal primary units, that the self-admiration expressed by representatives of the County Councils Association

<sup>1</sup> See White Paper on *Water*, 1944. Water Act, 1945. Hansard, Commons, 21st Feb., 1945. Cols. 815 *et seq.*



carries conviction in the face of hard facts, or that the disadvantages of the county boundaries can be overlooked by any stretch of the imagination. The counties are, indeed, extremely defective as administrative units, considered as a whole; and if we were starting with a clean slate to design the municipal structure afresh it is extremely unlikely that we should produce anything like the present county divisions. A county has merely a conventional boundary. The boundaries of a county were usually the limits of the jurisdiction of an iron-clad feudal earl in ancient days.<sup>1</sup> All our ancient counties, which form at least the basis of the administrative counties, appear to have reached some approximation to their present extent and form before Domesday Book was compiled about the year A.D. 1085. They were all in existence in almost their present form by the middle of the eighteenth century. Hence they all grew up before the industrial revolution, in a period when England was mainly a country of self-supporting agricultural communities between which there was comparatively little intercourse.<sup>2</sup> To-day the immense inequalities of area, population and wealth, the fantastic lines of the boundaries, the inconvenient position of the county town, the disregard for natural configuration and economic frontiers: these and many other factors contribute in greater or less degree in making many of the counties imperfect as areas of government. The chief reason for the undoubted fact that our existing county divisions are so unsatisfactory is that they are not related in any systematic or rational manner to the distribution of the people or the natural features of the country.<sup>3</sup>

Nevertheless, it seems inevitable that the county councils should be made the basis, outside the independent towns, for a reconstructed municipal framework. In the first place, they exist, and exist strongly; and however much we may deprecate the divine right of things as they are, or resist the dominance

<sup>1</sup> Cf. Lord Robert Montagu: *Royal Sanitary Commission* 1869. *Second Report*, vol. i, C. 281/1871, p. 54.

<sup>2</sup> C. B. Fawcett: *The Provinces of England*, chap. 1.

<sup>3</sup> *Ib.*, p. 49.

of past traditions over present benefits, nothing is more certain than that the future must grow out of the present. In the second place, the county councils, despite their defects, are better as a class than any other type of local authority outside the large towns, to some extent because they are larger. Compared with the urban and rural districts, the parish councils and meetings and the great majority of small non-county boroughs, the county councils appear to be the paragons of municipal virtue. Thirdly, it is a fact that the county council has a better staff of officers than most of the other local authorities outside the large towns. Patronage is less rampant among the counties and corruption almost unknown.

Two other considerations must also be taken into account. One is the fact that county feeling runs strongly in many counties, regardless of the fact that the administrative counties for which so much patriotic fervour is felt are areas often differing widely from the ancient counties in respect of which that consciousness was first aroused. Last but not least, the county councils are powerful from a political point of view, and there is nothing to be gained from advocating proposals which, no matter how desirable from an ideal standpoint, are practically impossible of achievement.

For these reasons, therefore, we must accept the counties as one of the two fundamental elements from which reconstruction must proceed.

This does not mean, however, that the counties must necessarily be regarded as fixed for all time in their present form. There is a great deal to be said for the contention that the county areas should be regarded as open to improvement, by the extension, exchange and amalgamation of territory, no less than the independent cities. County feeling is not likely to experience more difficulty in associating itself with modified areas in the future than it has in adapting itself to haphazard or accidental alterations in the past.

The extent to which continuous change by small uncoordinated increments is always going on is not always appre-



ciated. During the first decade of the century (1901-11), for example, 348 civil parishes vanished by absorption in others, 70 new ones were created, and 332 suffered changes of area; while 112 urban districts underwent changes in their boundaries, involving consequential changes in many rural districts. The boundaries of 17 administrative counties and of 8 registration counties were altered. These changes were so widespread that only 3 administrative counties were not affected.<sup>1</sup> There is evidently nothing sacrosanct in the boundaries of the local government areas of England, and no valid reason exists for refusing to consider any serious plan for the reorganization of the counties. The great number of these changes points to a general dissatisfaction with the existing divisions of local government; but that dissatisfaction has so far never found expression in a general survey for the purpose of revising the boundaries as a whole.

We can scarcely hope that the rationalization of county boundaries will be brought about by the unaided efforts of the county councils. The county councils, while acutely conscious of the shortcomings of all other classes of local authority, remain complacently unaware of their own defects. The spokesmen of the County Councils Association explained at length to the Royal Commission on Local Government the precise reasons why there should be transferred to the counties all functions which require an extended area of administration, the provision and maintenance of institutions, the exercise of semi-judicial activities and those partaking of ■ quasi-legislative or penal character<sup>2</sup>—a classification comprising almost the whole list of municipal powers and duties, and involving an extensive denudation of county district authorities.

One of the same witnesses dwelt fondly on "the distinction to be drawn between the reasons which made the normal administrative county a suitable area over which to administer services not rendered directly to particular persons, and those

<sup>1</sup> C. B. Fawcett: *The Provinces of England*, pp. 48-9.

<sup>2</sup> R.C.L.G., p. 41; *Evidence*: Dent, Hinchliffe and Holland (X, 1961-2).



which made it a suitable area for services which were so rendered.”<sup>1</sup> For “impersonal services” such as the maintenance of highways and the prevention of river pollution, what is needed by a local authority is sufficient financial resources and jurisdiction over an area “sufficiently comprehensive to enable them to look at the problems before them on a proper scale” and to engage a staff suitably qualified to deal with them. For “personal services” of the second type, such as higher education or the treatment of tuberculosis or mental deficiency, the authority requires adequate financial resources and a population large enough to yield a sufficient number of pupils or patients to permit a suitable scheme of education or institutions for treatment being provided on economical lines.<sup>2</sup> In all cases the existing counties appear admirably suited, in the eyes of the County Councils Association, for the exercise of both types of function. How acutely aware is the Association of the need for areas of precisely the same size and shape as the existing counties; how sublimely ignorant of the need for anything larger or different in design from the “normal county”—whatever that may be!

Lack of imagination and self-criticism of this order suggests, it would seem, that any movement towards the rationalization of county boundaries will require in the first instance action on the part of Parliament and the central government to set the process in motion. A rectification of county boundaries must inevitably come sooner or later. There would seem no good reason why the idea of a compulsory general review at a given date, followed by others at periodic intervals, introduced by the Local Government Act of 1929 for the revision of county district boundaries, should not be applied to the amendment of county boundaries as well.

#### SECONDARY ELEMENTS IN THE STRUCTURE

The proposals made so far concern what have been termed

<sup>1</sup> *R.C.L.G.*, p. 216; *Evidence*: Dent (III, 479).

<sup>2</sup> *R.C.L.G.*, p. 217; *Evidence*: Dent (III, 479-80).

the primary elements in the municipal structure: that is, the county councils and county borough councils. Out of these the new *ad hoc* combinations will be built up. No attention has been paid so far to the secondary elements in the framework: namely, the parish councils and parish meetings, the urban and rural district councils, the non-county borough councils.

Before any fruitful discussion can take place concerning the county district authorities, we must make up our mind whether we want one or more than one local governing body in each area. This question, simple though it sounds when stated baldly, is of inestimable importance and has far-reaching consequences. It is seldom if ever raised, and never answered with the frankness which clear thinking demands.

I have no doubt at all that the correct principle on which a good system of municipal government must be based is that in every area there should be one, and only one, elected local authority responsible to the community for the whole mass of services paid for through the rates. This principle was enunciated in its special application to local health administration by the Royal Sanitary Commission of 1869. It was persistently ignored by the legislation of 1888 and 1894, which established the county councils, the parish councils and the district councils, and drew a distinction between independent cities and semi-independent boroughs within the county.

Much of the earlier part of this work was devoted to a critical exposition of the disadvantages which result from the existence of two, three and even four local authorities having jurisdiction over a single place. The immense confusion arising from the splitting up of functions which should be unified; the overlapping and waste necessarily attendant upon the disintegration of administrative power; the disastrous effects caused by making parish councils and district councils responsible for certain aspects of education and public health while county councils are responsible for other aspects of the same services; the impossibility of arriving at a coherent policy, or of carrying it out when formulated, so long as no one council has complete



authority; the discontent of the councils of non-county boroughs with ■ system under which they are neither subordinate nor independent; the financial confusion which is the inevitable result of several unco-ordinated organs of government being permitted to tap ■ single source of revenue; the jealousy and rivalry which exist, side by side with apathy and incompetence, between local authorities who strive perpetually to maintain and enlarge their respective shares of administrative authority: all these disadvantages are revealed, not by the tortured imagination of ■ querulous critic, but by the hard facts brought to light by official investigations. At the risk of being wearisome, I have again and again let the evidence speak for itself—more often than not through the mouths of representatives of the various classes of local authorities. The conclusion which irresistibly obtrudes itself through the mass of data which has been surveyed is that the multiplication of local authorities which now exists is a defective form of political organization demonstrably unsuited to the ends it is desired to attain and doomed to be superseded at an early date.

As is not infrequently the case, ■ long and elaborate argument was required to prove an essentially simple proposition. Looked at without prejudice and with fresh eyes, the maxim that there should be one, and only one, local authority responsible for the municipal affairs of each area might well seem self-evident and scarcely capable of contradiction. Yet so accustomed have our minds become to the anomalies and absurdities of the present confusion that this simple axiom will appear to many as ■ revolutionary idea deserving of the most severe censure and denunciation. Not ■ few of the vested municipal interests will raise the battle-cry against a conception which imperils their existence.

Yet political science has shed its light on this question, and I am convinced that no matter how strong the opposition to change may seem, the day is not far distant when the unification and simplification of our municipal structure will be seen to be an obvious and indispensable condition of social progress.



No society can for long afford to permit its political institutions to lag behind the current state of scientific knowledge.

Having decided that we want only one local authority in each area, we have to choose whether that authority shall be the county council on the one hand or the county district authority on the other. (The county boroughs will obviously remain independent units as at present and are not concerned in this part of the discussion.) With such a choice before us we cannot hesitate. The whole tendency to-day is away from the small local authority and in the direction of larger administrative units. We see this tendency at work wherever we look: in the Poor Law, in regard to roads, the police forces, town-planning, electricity and many other fields. The county must obviously be preferred to the county district. In spite of all its present defects, the county has within it at least the germs of efficient democratic government. It is relatively sizeable and wealthy. As much cannot be said of the multitude of small boroughs and urban and rural districts which offer the only existing alternative.

The objective which we should ultimately have in mind is, therefore, the establishment of the county council as the sole authority responsible for administering all municipal services outside the county boroughs. This objective, which is the ultimate aim, cannot, perhaps, be realized at once. There must doubtless be a period of transition. Furthermore, many of the areas which are at present county districts should become county boroughs.

### SERVICE AND CONTROL

The process by which the undivided local supremacy of the county council is likely to be brought about is through the gradual transfer of functions from the district authorities to the county councils, combined with the persistent selection by Parliament of county councils (together with county borough councils) as the responsible authorities for administering new services. Both these tendencies are amply illustrated by much

of the social legislation of the present century. An outstanding example of the former process is provided by the Local Government Act of 1929, which among other things transferred the administration of the Poor Law and highways from the rural district councils<sup>1</sup> to the county councils.

The services which most urgently need to be transferred from the county district authorities to the county councils are sewerage, sewage disposal and water supply (which the Royal Commission recommended should be aided from county funds)<sup>2</sup>; the provision of infectious disease hospitals (which the Commission advised should be organized and in some cases maintained by county councils);<sup>3</sup> the regulation of the milk supply; the provision of houses for the working classes together with such auxiliary functions as the formulating and execution of reconstruction schemes for the elimination of unhealthy buildings and districts; the preparation and administration of town-planning schemes; the supply of electrical energy; maternity and child welfare work (which can already be carried out alternatively by the county council); the prevention of river pollution; the provision of slaughter-houses, fire brigades, public libraries and aerodromes; the maintenance of police forces, and the administration of elementary education.<sup>4</sup>

All the municipal activities contained in the above list, with two exceptions, consist of collective services. They may accordingly be termed Service functions. The excepted activities are the regulation of the milk supply and the prevention of river pollution. These are forms of regulation, and may by contrast be called Control functions.

The distinction made here may be of some value in enabling us to enunciate a principle on which to base future legislative action. The most serious disadvantages of the present distribution of power between the county council and the minor county

<sup>1</sup> Acting as Boards of Guardians for Poor Law purposes.

<sup>2</sup> *R.C.L.G.*, p. 27; Local Government Act 1929, Sect. 57.

<sup>3</sup> *2 R.C.L.G.*, p. 60.

<sup>4</sup> It will be observed that not *every* county district authority has power to provide all these services, but we are no longer concerned with where these powers now reside, but with where they should be transferred.



authorities occur in nearly all cases in connection with Service functions—that is, where the local authority is charged with providing a specific benefit in kind to particular classes of individuals or to the generality of citizens. It is here that the unscientific boundaries, inadequate resources and lack of knowledge, enterprise and imagination which characterize many of the smaller district and borough councils produce the most detrimental results.

Functions of Control, which consist essentially in the regulation of the conduct of individuals and corporate bodies in the common interest, can frequently be exercised with a fair degree of success by quite small and relatively poor local authorities. Yet even here large areas of jurisdiction are occasionally required, partly in order to ensure consistent administration and partly in order to prevent the action of one authority from frustrating the efforts of its neighbours. Thus, river pollution can only be effectually prevented by operations covering a large natural area; and the same applies to smoke abatement, the regulatory aspects of town-planning, and the enforcement of statutory provisions designed to prohibit the sale of tuberculous milk.

It is not suggested that Service functions and Control functions are absolutely and necessarily distinct.<sup>1</sup> Quite frequently the power of regulation becomes directory and positive to such an extent that the authority wielding it is given power to act in default of ■ refractory member of the community; and in this way Control develops into Service. There are, again, many cases where inspection of the higher sort itself becomes ■ form of Service rather than of Control. In the limit, to use a mathematical expression, Control becomes Service. But for most practical purposes we can nevertheless draw ■ broad distinction between powers of Control and powers of Service.

The Control powers of the county districts might well be left undisturbed for some time provided we transfer within a reasonable period all or most of the Service powers of which

<sup>1</sup> For an illuminating discussion of the whole subject see Ernest Freund: *Administrative Powers over Persons and Property*. 1928. Harvard University Press.



mention has been made. In particular, efforts should be made to remove at an early date from the jurisdiction of the districts and small boroughs those services requiring extensive or expensive institutional arrangements, such as public libraries, education, the treatment of disease and so forth.

The subject may be looked at from another point of view. The functions of local government may be classified as services of a more or less technical character and those in which the need for studying public opinion is predominant. No one feels very strongly on the subject of water supply, provided only that the supply is a good one as regards quantity and quality, and reasonable in price. This is obviously a technical service, and the essential criterion of satisfactory administration is the result in terms of the commodity. On the other hand, in the case of licensing conditions, the making of by-laws, the removal of obstructive buildings and the management of commons or open spaces, the essential demand of a local community is to be allowed to govern itself. No result arrived at by another method, however good in other respects, would be a substitute for this need.

As a rule, the size and wealth of an area are not of much importance in regard to the exercise of powers of Control. Local knowledge is, however, vital both for the comfort of the public and economy of administration. In Service functions, on the contrary, the size and resources of the area are closely related to the excellence of the result. It is obviously desirable to secure integrity of conduct, the elimination of corruption, and the maintenance of equitable standards in the exercise of powers of Control. And it is sometimes suggested that an absence of these qualities makes the smaller authorities unfitted to exercise regulatory functions.<sup>1</sup> But all these desiderata, with the added advantages of coherence and consistency, can easily be obtained by means of judicial supervision. The courts of law, indeed, are at their best in supervising the exercise of administrative control over persons and property.<sup>2</sup> Their efforts

<sup>1</sup> *2 R.C.L.G.*, p. 40: *Evidence*: Dent, Hinchliffe and Howard (X, 1961-2).

<sup>2</sup> Cf. William A. Robson: *Justice and Administrative Law*, chap. vi. Also Freund: *op. cit.*

at regulating the service functions of administrative authorities are much less fortunate, and have been greatly restricted during recent years.<sup>1</sup>

### REPRESENTATION AND ADMINISTRATION

If the county district authorities were denuded of their principal Service functions in the manner suggested, they would still be left with large powers of Control over persons and property—a form of local government much older, it may be observed, than most of the services which comprise modern municipal administration. This transference of so many functions to the county may appear at first sight an indignity not to be endured, a disaster of the “worse-than-death” order, compared to which complete extinction would be a preferable alternative.

This view is not necessarily well founded. It is possible that in the modern world of social co-operation, in which practical activities are organized on a scale far exceeding the scope of our inherited physical capacities, there remains the need for organs of political communication suited to the natural senses of men and women even though no longer appropriate for administering the services on which our civilization depends. If this is so, we may learn to recognize the need in municipal affairs for representative bodies elected for the purpose of voicing grievances and demands, expressing the will of the community and enunciating and enforcing the common rule of life and conduct. These bodies would be distinguished from representative bodies created on a much larger scale for the purpose of administering collective services. In such an eventuality, parish councils and district councils and small non-county borough councils might continue to exist as representative organs of the former type, long after they ceased to be charged with the more elaborate functions of administration.

We have already become accustomed to regard the Parish Council or Meeting as being essentially a Representing body rather than as an administrative unit. Much of our legislation

<sup>1</sup> William A. Robson: *Justice and Administrative Law*, 2nd edition, *passim*.



reflects this attitude. Thus, parish councils or parish meetings may petition the Minister against confirmation of an order by the county council altering the parish boundaries. They may make representations to the county council that the rural district council is in default in carrying out its duties under the Housing Acts;<sup>1</sup> they have statutory authority to make official complaint to the county about the water supply and the sewerage system; they can seek the aid of the county council in compelling the rural district council to carry out its duties under the Public Health Acts; they can insist upon the maintenance of the highways in proper repair.<sup>2</sup> As a representing body, the parish council can justify its existence and survive in a world which is no longer parochial. As an administrative unit the parish can scarcely hope for immortality.

The business of a parish council consists largely of things which do not cost money. "It seems to me," said Mr. M. S. Pease to the Onslow Commission, "the real use of the Parish Council is in calling the attention of other bodies to things which want doing."<sup>3</sup> The speed of motor-cars and the existence of dangerous corners on the road are, in the opinion of this experienced parish and rural district councillor, typical examples of things in which a parish council can fulfil its purpose by calling the attention of the proper authorities to the matter in order to get the grievance remedied. In a well-administered area there is never any difficulty in getting the higher authorities to deal with the matters raised by the parish council.<sup>4</sup> The real value of the parish councils seems to lie, concluded Mr. Pease, "in the spiritual effect which they produce on the village people. Villagers do see, when a parish council begins to be active, that what they do at the parish meeting, and how they vote, does have some effect and . . . anything which strengthens the feeling of local self-government is very valuable from a national point of view."<sup>5</sup>

<sup>1</sup> Housing Act 1925, Sects. 73, 74 and 75.

<sup>2</sup> Local Government Act 1894, Sects. 16 and 19 (8).

<sup>3</sup> *R.C.L.G.; Evidence: Pease* (XIII, 2324).

<sup>4</sup> *Ib.*

<sup>5</sup> *R.C.L.G.; Evidence: Pease* (XIII, 2324).



Even the parish meeting is valuable as a means of safeguarding the interests of a village when they are in any way threatened, although as an organ of administration and for initiating schemes for the improvement of conditions in the village it has little practical value.<sup>1</sup>

Not only in local government but in many other departments of life the tendency can be observed of distinguishing Representing bodies from administrative units. Chambers of Commerce, trade unions, trade councils, religious societies and professional associations of all sorts, are becoming increasingly important as organs of expression for voicing the feelings and opinions of selected groups, and of diminishing value from the point of view of executive action. The national government and even Parliament itself are growing more and more susceptible to the influence of organized opinion expressed through functional bodies. Every candidate for Parliament is bombarded with statements from organizations of bicyclists, anti-vivisectionists, insurance agents, licensed victuallers, cinema proprietors, divorce reformers, humane slaughterers and all sorts of other groups, each urging a particular point of view and demanding a declaration of acceptance as the price of support.

#### THE INTERNAL ORGANIZATION OF THE COUNTY

Although it may be expedient to leave the parishes and county district authorities for some time in undisturbed possession of their Control functions and powers of representation, it is unlikely that there could ultimately continue to exist, as permanent institutions, two sets of authorities covering areas of different sizes within the same territory: one elected for administrative functions, the other constituted solely for the purpose of formulating and expressing public opinion and regulating the general conduct of the body of citizens. Nor do I conceive this would be the case. The system of local government which is contemplated will consist ultimately of county boroughs and county councils, together with the various com-

<sup>1</sup> R.C.L.G., *Evidence*: Pease (XIII, 2323 and 2312).

binations for special purposes into which these primary elements will be grouped.

It is clear, however, that some constitutional machinery must be devised for the internal management of the county. A large county, like Cornwall or Kent, could not possibly have all its municipal affairs administered *en bloc* from the county town. Such a method would be objectionable to the local communities within the county and would present insuperable difficulties to the centralized county executive.

Stated shortly, I believe the most excellent method of dealing with the internal organization of the county as at present constituted would be to confer the status of independent county boroughs on a considerable number of large urban areas and to work the remainder of the administrative county by means of District Committees composed of a majority of county councillors together with an added element from the locality produced either by co-option or election.

This would make the District Committee in essence a committee of the county council. It would have delegated to it, either compulsorily or at the discretion of the county, a considerable part of the administrative work of the county council. For this purpose it would require office accommodation, a staff of officers and appropriate institutional equipment, all situate in the locality for which the District Committee is appointed. In some ways the District Committee would not be entirely unlike a district council of the kind now existing. But an essential feature of the proposed structure is that the District Committee would necessarily be an instrument for carrying out the policy of the county council. Even when given a free hand, the district administration would still be subject to contingent supervision and co-ordination by the county council. The staff of the District Committee would consist of officers employed by the county council and allocated to the District Committee for local service. No money could be raised by rate or loan by the District Committee, all financial operations of this kind resting with the county council.



By this means we should get rid of the objectionable system of having several local authorities with jurisdiction over the same area. The county council would be the sole elected authority in the administrative county possessing inherent administrative power. At the same time, there would be a definite body entrusted with the welfare of each local community within the county, charged specially with looking after its peculiar interests and administering many municipal services on behalf of the county. A system not unlike this plan has already been in force in Scotland, and works extremely well.<sup>1</sup>

There is, of course, an immense variety of forms in which this general idea may be applied. There is no reason why there should be only one District Committee for each county division. There might be one committee formed for each district on a territorial basis, acting as agent or delegate for the county council as a whole; and other committees formed on a functional basis and operating directly under the Public Health or Housing or Education Committee of the county council. There is no reason why the same district should be employed for all purposes. The county might be divided into different sets of district areas for different purposes, so that each District Committee would have jurisdiction over a type of area most suited to its needs. Just as the primary units of local government require to be combined into different groups for separate services, so the counties may need to be divided in various ways to meet the demands of particular functions. The composition of the District Committees would vary not only — regards the members appointed by the county council from among their own number, but also in respect of the local element from the district. In some cases it might be desirable to rely on co-option; in others, election by the district might be the best method. Sometimes, as in the case of education, it might be desirable to require functional bodies within the locality to nominate

<sup>1</sup> The Scottish system of local government varies in many respects from that of England. See Memorandum by the Scottish Office on the *Local Government System of Scotland*, reprinted from Part VII of the *Minutes of Evidence taken before the Royal Commission on Local Government 1925*. H.M. Stationery Office. But cf. Local Government (Scotland) Act 1929.



members of the District Committee, in order to secure the representation of special points of view.<sup>1</sup>

The representatives of the county council on the District Committee should always include, wherever possible, those members of the county council who represent the division of the county in which the district is situated, and also perhaps those who live in the area in question. But there is no need for the representation of the county council to be confined to these members. The essence of the scheme is that the good government of the county as a whole should be borne in mind even when the administration of ■ much smaller area is under consideration. For that reason it would be ■ mistake to make the county council a federal body. There is a great difference between electing persons to the county council and then creating local territorial committees from the members so elected, and the alternative course of electing persons to minor local authorities and then manufacturing a county council from the aggregate of persons so elected. In the one case there is a fair chance of obtaining a large point of view; in the other the outlook is likely to be parochial.

Already in several of the counties we find ■ series of District Committees in existence for functional purposes. The county council of the West Riding of Yorkshire has set up no less than 120 district sub-committees in county districts in which they are the local authority for all types of education. These district sub-committees cover groups of 6, 8 or 10 villages, or one or more urban centres, and consist of at least one member of the county education committee together with other persons appointed by the local district council or co-opted by the sub-committee itself. The district sub-committee has power to appoint assistant teachers and subordinate members of the school staff; it can take part in the appointment of head masters and mistresses; and is responsible for the general management of the school subject to the financial control of the county

<sup>1</sup> The Divisional Executives set up under the Education Act, 1944, conform in many respects to the principles suggested here.

council. The clerical staff of the district sub-committee consists of officers of the county education committee.<sup>1</sup>

In Lancashire, again, the county council has established 33 local committees for elementary education and 99 committees for secondary and technical education in urban areas. The county education committee devolves a large amount of detailed work on these committees, and great importance is attached to securing the local interest of as many people as possible who are likely to advance the public welfare.<sup>2</sup>

Even in some of the great cities a system of District Committees is coming into existence.<sup>3</sup> In Manchester, for example, the Highway Committee is split up into 4 territorial sub-committees. Each sub-committee has its own surveyor, and deals with highway administration in an area covering about a quarter of the city.

The parochial committee system embodies on a smaller scale a similar conception. Under the Public Health Acts a rural authority such as a district council may form for any contributory place within its area a parochial committee consisting entirely of members of the rural authority, or partly of such members and partly of ratepayers in the contributory place who are qualified in any manner which the rural authority may determine. The parochial committee is subject to any regulations or restrictions imposed by the creating body. It becomes the agent of the district council, but does not relieve it of obligation. It can be empowered to incur expense up to any amount prescribed by the forming authority, and these expenses are discharged by the rural authority. Its constitution can be altered, and it can be dissolved by the rural authority at will. A parish council may be requested to act as a parochial committee, and this is frequently done. The Royal Commission

<sup>1</sup> *R.C.L.G.*, p. 222; *Evidence*: Sir Percy Jackson (III, 675).

<sup>2</sup> *R.C.L.G.*, p. 221; *Evidence*: Taylor (III, 607).

<sup>3</sup> E. D. Simon: *A City Council from Within*, p. 218. It is of interest to note that a special committee appointed by the Manchester City Council in 1909 to consider decentralization reported in favour of the principle of establishing separate committees to deal with special services, in accordance with the prevailing practice, as against the alternative system of splitting up the city into smaller areas and appointing local committees to administer a number of services in each area.



urged that if the reorganization of areas carried out as a result of the periodic general reviews effects the elimination of any small urban districts, provision should be made to substitute something in the nature of parochial committees<sup>1</sup> in those places.

It is not proposed that the county council should be under any obligation to delegate the administration of all or even the majority of its powers to the District Committees suggested above. It is obvious that a number of services require not merely planning and co-ordination over a large area, but also centralized administration on a similar scale. Hence, in many cases a service would be directly administered by the county council itself or by one of the larger combinations in which the county would be merged for the particular purpose. A distinction must once again be drawn between those services which ought to be administered by an authority of not less than a minimum size, and those where executive duties can be successfully undertaken by quite small bodies, provided co-ordination and adherence to a common plan are obtained by a supervising authority. Thus, certain services would be delegated to the District Committees in all cases; other services would not be delegated in any case; and a third category might consist of services which would be delegated to District Committees in areas fulfilling prescribed conditions.

#### PLIMSOLL LINES IN LOCAL GOVERNMENT

There is room here for an intelligent use of the grading principle, which is at present applied in an old-fashioned and clumsy manner in certain restricted fields. The idea of conferring powers on those districts which satisfy specified requirements of fitness has much to commend it. If properly carried out, it could be made to serve the valuable purpose of distributing power on a basis of true categories, as distinct from the muddled and misleading classification which now exists. It is not suggested that powers or duties ought to be conferred on municipal bodies as a kind of reward for mere size, or even in

<sup>1</sup> R.C.L.G., p. 15.



recognition of prestige or antiquity. But it is clear that certain kinds of local services cannot be efficiently administered by units below a certain size. In these cases the grading principle should be regarded as a kind of Plimsoll line intended to ensure that no local governing body is overloaded with more functions than it can safely carry or entrusted with a larger cargo of duties than it can discharge in a satisfactory way.

Hitherto, where the grading principle was employed, we usually took the last census prior to the passing of a particular statute and used that as a permanent measuring rod. Thus, the Education Act, 1902, provided that elementary education should be undertaken by the councils of boroughs having a population over 10,000 and by the councils of urban districts with more than 20,000, according to the census of 1901.<sup>1</sup> The allocation of police force powers to non-county boroughs proceeded on the basis of the census of 1881,<sup>2</sup> and the same applies to the administration of the Diseases of Animals Acts.<sup>3</sup> Many other statutes follow similar lines. It is demonstrably unscientific to grade local authorities on the basis of their populations at a fixed date — often the last census prior to the passing of a particular piece of legislation — and then to stereotype that gradation for all future time. The population aggregates which existed in 1881 or 1901, or some other more or less remote date, often determine present functions and affect the distribution of power, although large changes have since taken place. This is clearly undesirable.

It may, furthermore, be suggested that mere size of population is not the only criterion which can be profitably employed in distributing powers among local authorities. Average density of population, the composition of the population in terms of age, sex and occupation, aggregate rateable value, assessable value per head, territorial area, the character of the area: these and many other criteria can usefully be employed for different purposes.

It is important that differences of power consequent upon

<sup>1</sup> Education Act 1921, Sect. 3.

<sup>2</sup> Local Government Act 1888, Sect. 39.

<sup>3</sup> *Ib.*

variations in size should not be maintained "on principle," but instituted only when some real advantage is to be secured by so doing. In the case of the District Committees within the county, it is obvious that the grading method could often be applied with success to the areas under their jurisdiction.

One of the general advantages which might be derived from the grading idea, if properly applied, would be to keep the local government system "flexible and responsive to the facts of growth and change"—which it fails to be at present. It would enable areas to pass from one stage of municipal development to another without conflict or impediment. It would provide an incentive to growth, and mark quantitative degeneration with an impartial but decisive hand. It would leave room for an element of "becoming" in the municipal structure and provide transitional steps between "that which is A and that which is not-A," to borrow the logician's phrase.

In putting forward the suggestion that the counties should be divided into district areas governed for certain purposes by District Committees acting on behalf of the county council, I do not propose that the distinctions of status, class and nomenclature at present existing between county districts should be retained. I have already shown at some length that the classification of county districts into rural districts, urban districts and non-county boroughs (not to mention the parishes) fails to correspond to a classification of areas based on the facts of population, wealth, territory or even character. Since the whole object of this work is to relate the institutions of our municipal structure to the realities of the social fabric, there can be little justification for continuing a hierarchy which distorts those realities or, at the least, disguises them. There must necessarily remain large differences of size and character between the county districts, no matter how far reorganization may proceed. But there is no real need for one kind of district authority for the older towns of small size and diminished importance and another kind for the newer urban centres or suburban aggregates. Moreover, the rapid development of motor transport and



other forms of communication is breaking down the old clear-cut line of demarcation between town and country, and I do not think we can any longer justify withholding so-called urban powers from so-called rural districts and thereby placing such districts in an inferior position.

The Minister of Health, in giving evidence before the Onslow Commission, showed that he recognized the force of these contentions. The Minister's representative suggested that the Royal Commission might commend to the attention of Parliament, in its future dealings with the problem of distributing functions, the desirability of attaching less weight than hitherto to the legal status of local authorities, that is, to their being borough, urban district or rural district councils. The Minister's witness further suggested that the presence or absence of such a characteristic ■ a separate Court of Quarter Sessions or a separate police force is "decreasingly relevant to the efficient discharge . . . of the normal functions of local government."<sup>1</sup> He also deprecated the idea of attaching weight to the mere numbers of population in the areas of different districts, especially if they referred to those prevailing at a fixed date.

### THE INDEPENDENT TOWNS

We may turn now from the internal organization of the administrative county to a consideration of the other primary element in the municipal structure: the independent town or city. I have already indicated that the essential foundations of the improved framework must consist of county borough council and county council. We have still to consider the conditions under which a town should be enabled to become an autonomous unit of government.

It would obviously be both impracticable and undesirable to ask any town which at present enjoys county borough status to give up its independent position. There are, indeed, only 83 county borough areas in the whole of England and Wales, compared with 309 non-county boroughs and 572 urban dis-

<sup>1</sup> 2 *R.C.L.G.*, p. 47; *Evidence*: Robinson (XII, 2278-9).



tricts.<sup>1</sup> It would clearly seem as though the tendency should be in the opposite direction, that is, towards the creation of more county borough councils.

If the proposals which have been made in the preceding pages are carried out with some measure of completeness, I do not believe there will be any real objection to conferring independent county borough status with a much freer hand than in the past. Such a development would be attended with many advantages.

There can be little doubt that the bitter conflict between the great town and county authorities which now disfigures English municipal life and, like some fell disease, produces an incessant drain on the energy and resources of the councils, is largely caused by the abrupt and illogical severance of county dominion which follows the creation and extension of county borough areas. The story of this conflict has been told at some length; and no fair-minded reader can fail to be struck by certain conclusions which emerge with irresistible force.

In the first place, despite the exaggerated claims put forward for their own predominance, the county councillors would be less than human if they did not strive tooth and nail to avert the enlargement in size and numbers of the county borough areas. It is useless to expect the county councils to stand by with folded arms while vast cities escape their rule and wealthy provinces fall into the hands of rival authorities. On the other hand, we have seen with unmistakable clarity that the cities can make out an overwhelming case for the acquisition of county borough status and for the expansion of their boundaries.

There seems no reason to believe, however, that the present incessant warfare would persist if the association of county and city were to continue in regard to a number of important services through the combinations of county and county borough councils whose creation for special purposes has been urged in the preceding pages. If neighbouring groups of counties and cities were compulsorily merged in larger units for such services as education, land drainage, highway administra-

<sup>1</sup> As on April 1st, 1947.

tion, sewerage, water supply, town-planning, electricity generation, lunacy and mental deficiency, Poor Law and so forth, the formation of new county boroughs or the expansion of existing ones would lose much of its sting from the standpoint of the counties. The financial aspects of the conflict would be immensely relieved and one great cause of disharmony be removed. The attempt to stop the extension and creation of county boroughs in order to preserve the county from becoming a mere residue is, as Mr. G. D. H. Cole truly observes, doomed to failure.<sup>1</sup> A town should not be administratively divided from its suburbs, or kept in an artificial state of tutelage, solely because the county council fears the loss of ratepayers to the town. The remedy for the present impasse lies in a reintegration of town and country through a series of new and wider areas, and not in an attempt to preserve a number of purely unreal and vexatious divisions.<sup>2</sup> Our boundaries should be so drawn that no suburban district is severed from its "focal town."<sup>3</sup>

There is obviously an immense difference between the inferior position of a non-county borough under the present régime and that of an independent county borough operating major services through larger combinations. In the former case the town is governed for numerous purposes by a body on which the town council as such is in no way represented; in the latter case the town is supplied with various services by composite bodies in which the borough council is definitely included. The contrast amounts almost to the difference between subordination and participation.

Although I have urged at some length the necessity for insisting upon a far greater degree of co-operation between local authorities than now exists, and have without hesitation proposed that coercive measures should be employed to compel them to combine in appropriate groups, I nevertheless believe that a very large amount of independence can be enjoyed

<sup>1</sup> G. D. H. Cole: *The Next Ten Years in British Social and Economic Policy* (1929), p. 325.

<sup>2</sup> *Ib.*

<sup>3</sup> C. B. Fawcett: *The Provinces of England*, p. 71.



within a framework of obligation such as this. Such independence is an immensely valuable asset in civic life. While we should compel a high degree of co-operation as respects particular services, we should at the same time confer the greatest possible amount of autonomy in regard to the residue of functions. This means, so far as the towns are concerned, that county borough status must be conferred with a liberal hand.

With this in mind we can consider the conditions under which county borough status should be conferred. This is a problem of considerable difficulty. There are two or three counties which are approaching the point at which they might conveniently be apportioned entirely among co-terminous county boroughs. It has been suggested that this might possibly be the case in Middlesex, for example, and in Glamorgan.<sup>1</sup> There are other counties, such as Radnorshire, in which there are no towns of importance, and the best thing to do would be to confer county borough powers on the county council. But these are exceptional cases to be found only at the extreme ends of the scale. The bulk of the counties consists of more or less rural areas studded with a few county boroughs and a large number of non-county boroughs and urban districts of varying magnitudes.

The Local Government Act of 1888, in setting up the county councils, established for the first time a distinction between towns which are independent of county control and those which are subject to the jurisdiction of the county council for numerous purposes. The statute declared that some sixty-one cities should henceforth become county boroughs, a term hitherto unknown to legal terminology or historical tradition. In drawing the distinction Parliament gave no indication of the principles on which it was to be maintained. Section 54 of the Act enacted that the Local Government Board (afterwards the Ministry of Health) could constitute a county borough by Provisional Order, subject to confirmation by Parliament, if

<sup>1</sup> Sidney and Beatrice Webb: *A Constitution for the Socialist Commonwealth of Great Britain*, p. 232.



the Minister considered it "desirable," provided the town contained not less than 50,000 inhabitants.

Many county boroughs were brought into existence by this means, while others were created by Local Acts of Parliament. In no case was the minimum figure of population regarded as more than a preliminary condition which had to be satisfied before an application or petition could be considered.<sup>1</sup> The Minister of Health was for many years accustomed to take into account a number of elaborate criteria before making his decision. These included the standard of administration in the locality, the effect of granting the application on county government, and the cumulative result of granting successive applications of a particular kind.<sup>2</sup> In regard to the extension of county borough boundaries, it was the practice of the department to consider further questions relating to the good government of the enlarged area, the wishes of the inhabitants, the equity of local burdens, differential rating schemes, community of interest, the inclusion of undeveloped land and cognate matters.<sup>3</sup>

The Minister took the sound view that no sure and certain light can be obtained from population figures considered alone. No one is likely to suggest that the suitability of an area to become an autonomous community should depend exclusively on arithmetical facts. Nevertheless, the minimum population figure prescribed is a matter of great importance, and some note must be taken of it in these pages.

The figure of fifty thousand laid down by the Act of 1888 may be regarded as extremely high compared with the practice prevailing in many foreign countries.<sup>4</sup> It is, however, unnecessary to go abroad for examples of a more generous attitude on the part of the legislature towards local independence, for Scotland provides a notable illustration of the precise phenomenon. In Scotland the Royal and Parliamentary Burghs are municipal units separate from the county, and those possessing

<sup>1</sup> *R.C.L.G.*, *passim*.

<sup>2</sup> *Ib.*, pp. 155-7.

<sup>3</sup> *R.C.L.G.*, pp. 157-63.

<sup>4</sup> G. Montagu Harris: *Local Government in Many Lands*.

police forces, together with counties of cities such as Edinburgh, Glasgow, Aberdeen and Dundee, correspond in most essentials with the county boroughs of England.<sup>1</sup> They are distinct from the Police Burghs, which somewhat resemble our urban districts and non-county boroughs. The independent Royal and Parliamentary burghs are not subject to an arbitrary population minimum. There are 21 of them with populations of less than 20,000, 30 with less than 10,000, 66 with less than 5,000, and 54 with under 2,000.<sup>2</sup> Several of these independent Royal and Parliamentary burghs which maintain their own police forces have a population of less than 20,000, and one has only 7,500. The Scottish Office were scarcely overstating the position when they dryly remarked that "on the whole, it would seem that independent powers have been more freely entrusted to small municipalities in Scotland than in England."<sup>3</sup> It is not suggested that the Scottish system of local government is to be followed as an ideal model, but merely that it is more free so far as the towns are concerned. This is one valuable advantage which it possesses.

Great pressure was brought on the Royal Commission on Local Government by the Associations representing the county councils and urban and rural district councils to raise the minimum population figure which a town should be required to attain before being able to apply for county borough status. The county councils suggested 250,000, which would qualify only a dozen cities in the whole country. The district councils contented themselves with merely doubling the present figure. In the result, the Royal Commission advised that the minimum should be raised to 75,000<sup>4</sup>; and this advice was embodied in legislation in 1929. It has since been raised to 100,000. It is interesting to compare this recommendation with the informa-

<sup>1</sup> Memorandum by the Scottish Office on the *Local Government Systems of Scotland*. Reprinted from *Minutes of Evidence taken before the Royal Commission on Local Government* 1925, p. 1508.

<sup>2</sup> *Ib.*, Statement A, pp. 1530-2.

<sup>3</sup> Memorandum by the Scottish Office on the *Local Government Systems of Scotland*, p. 1527.

<sup>4</sup> *R.C.L.G.*, p. 469 *et seq.*

tion at our disposal concerning the distribution of population in England and Wales.

### QUESTIONS OF SIZE AND GROWTH

Broadly speaking, more than four-fifths of the population of England and Wales is to be found within the areas of the 993 urban authorities (including non-county, metropolitan and county boroughs). Less than one person in five, or fewer than 8 millions in all, inhabits the rural districts, of which there are 475.<sup>1</sup>

The reduction in the birth-rate during recent years is a matter of common knowledge. This slowing down is reflected in a restriction in the growth of towns during the past decade or more.<sup>2</sup> But although the rate of growth has decreased, there is still a considerable absolute increase of population in the majority of towns throughout the country. This absolute increase is not, however, evenly dispersed among the towns and cities of different sizes, nor spread equally through the different localities.

Among the 993 urban areas are 166 which had populations in 1946 of 50,000 or more. These urban centres contain nearly 19 million inhabitants, so that almost a half of the total population of the country is to be found in large and relatively dense aggregates.<sup>3</sup> No less than a quarter of the population is massed in the fourteen very large towns whose populations exceed a

<sup>1</sup> *Census, 1921, General Report*, p. 23. The exact proportions of the urban and rural populations are 79.3 per cent. and 20.7 per cent. The aggregates are 30,035,417 and 7,851,282 respectively.

<sup>2</sup> The following figures from the census of 1921 illustrate this remark (*General Report*, p. 26):—

101 Towns having in 1921 ■ Population exceeding 50,000.					1901-11.	1911-21.
Increase of 50 per cent. or more	...				6 towns	■ towns
„ 30 „ to 50 per cent.					12 „	1 „
„ 10 „ to 30 „	...				38 „	17 „
„ 0 „ to 10 „	...				42 „	69 „
Decrease	...	...	...		3 „	12 „

<sup>3</sup> *Census 1921, General Report*, p. 25.



quarter of a million each. The proportion of the nation residing in these monster cities is, however, almost stationary, being 25.5 per cent. in 1921 as compared with 25.4 per cent. in 1911.<sup>1</sup> In some places, such as London, for example, the number of inhabitants dwelling in the central and inner areas is actually diminishing.<sup>2</sup>

In the towns containing less than 250,000 inhabitants a tendency towards increased urbanization is evident. The proportion of the total population living in towns between 100,000-250,000 increased from 12.6 per cent. in 1911 to 13.6 in 1921; in those between 50,000-100,000 from 9.9 per cent. in 1911 to 10.2 in 1921; in those between 20,000-50,000 from 12.8 per cent. in 1911 to 13.1 in 1921.<sup>3</sup> The following table shows the increases in the population aggregates of towns of various sizes between 1891 and 1921<sup>4</sup>:—

Towns Classified by Magnitude of Population.	Percentage Increase in Intercensal Period of Popu- lation of Towns Constituted ■ ■ ■ date of later Census in each period.			Ratio of Group Increase to Increase in England and Wales.		
	1891-1901	1901-11	1911-21	1891-1901	1901-11	1911-21
250,000—1,000,000 ...	12.1	7.0	4.6	99	64	92
100,000—250,000 ...	17.7	14.2	5.7	145	130	114
50,000—100,000 ...	23.2	16.8	7.9	190	154	158
20,000—50,000 ...	20.3	17.5	7.5	166	161	150
Under 20,000 ...	14.8	13.7	6.7	121	126	134
Total for England and Wales ...	12.2	10.9	5.0	100	100	100

These figures show that there are certain general factors at work determining the order of national growth, and that these forces affect all areas alike. But the table discloses a definite relation between the several groups of towns. For in each decennium the rate of growth in the smallest towns is above

<sup>1</sup> *Census 1921, General Report*, p. 23.

<sup>2</sup> *Ib.*, p. 28. A decrease of 37,162 persons in the administrative county of London was recorded in 1921.

<sup>3</sup> *Ib.*, p. 23.

<sup>4</sup> *Ib.*, p. 24.

the average, and this rate increases with an increase of size up to about the 50,000-100,000 category. Thereafter it consistently diminishes, the growth in the largest units being rather below normal.

This seems to suggest that a figure in the neighbourhood of between 50,000 and 100,000 roughly marks ■ "limit of effective aggregation beyond which the advantages of further accretion begin to be counterbalanced by increasing disadvantages."<sup>1</sup> Moreover, in the later decades the rate of increase in the smallest towns appears to have been relatively higher than before and that of the larger units lower than before. This tendency, the Registrar-General observes, is probably associated with the changes in the organization of industry which are gradually being brought about by factors tending to the dispersion rather than the concentration of population. Among these may be numbered recent developments in transport, the increasing use of electrical power transmissible over long distances with comparative economy, and the necessity of providing workers with more adequate houses and ■ healthier environment. "The most effective concentration of individuals in urban units, the Registrar-General concludes, may in future be a diminishing one and the decline in the rate of growth set in earlier than it has in the past."<sup>2</sup>

There is a considerable amount of evidence contained in the report of the census of 1921 to confirm the assertion made by various economists that a new industrial revolution is developing, and that the centre of gravity in English industry is swinging from the heavy industries in the North, such as mining and shipbuilding, to the lighter industries, such ■■ electrical supplies, aircraft and motor-cars, which are manufactured to ■ large extent in the Midlands and the South. Southampton, for example, increased its population by 11 per cent., and Coventry by no less than 20 per cent., while six of the great Lancashire towns suffered decreases varying up to ■ maximum of nearly 5 per cent.

<sup>1</sup> *Census 1921, General Report*, p. 25.

<sup>2</sup> *Ib.*, p. 25.

A tendency in favour of the less populous areas is also to be observed in certain parts of the United States of America. Mr. Henry Ford has set out at length the reasons which have led him to the view that the dispersion of industry away from the great cities is profitable from a business point of view.<sup>1</sup> From a social standpoint, this movement would appear to possess many advantages. No amount of good government can counteract certain fundamental disadvantages resulting from elephantine size nor compensate for excessive remoteness from nature and the country-side.

The significance of the census statistics in regard to local government lies in the probability that the size of towns is nowadays likely to be stabilized at a much lower figure than those we have been accustomed to expect in the case of centres of new and developing industries. We can no longer assume that flourishing trades and rising manufactures will be concentrated in one or two enormous specialized centres, as hitherto.

It follows from this that we must be ready to regard towns of recent growth and rapid expansion as quantitatively mature, despite their relatively small size. We must, accordingly, be willing to accord such towns every means within our power to enable them to provide in the fullest sense for the civic welfare of their inhabitants. If this is to be anything effective, it must mean that they should be granted the status of county boroughs.

There can be no doubt at all that the fullest civic life, as well as the most efficient municipal administration, is to be found in those towns which enjoy the freedom and completeness of county borough status. This is due not merely to the enhanced interest in local affairs which comes from the opportunity of providing directly or indirectly for all municipal services, but also to the feeling of responsibility and self-reliance arising from an independent position and a greater measure of freedom. It is especially undesirable in the case of rapidly growing towns to delay unduly the grant of independent power, for without this there is little likelihood of there being any real

<sup>1</sup> Henry Ford and S. Crowther: *To-day and To-morrow*.



development of either public spirit or civic control over the material environment during the formative period when directive regulation is vital and spoliation deplorably easy.

For these and other reasons, I believe that the Royal Commission on Local Government was mistaken in recommending that the minimum population qualification for towns desiring to apply for county borough status should be raised from 50,000 to 75,000.<sup>1</sup> Indeed, Parliament would have been well advised if, instead of raising the figure, it had lowered it to 30,000 and at the same time taken steps to ensure the enforcement of compulsory co-operation between local authorities in the manner I have indicated. I suggest that nearly all of the 166 urban areas with more than 50,000 inhabitants should receive county borough status without delay; and that a considerable number of the 112 towns having populations between 30,000 and 50,000 could also with advantage be created county boroughs.

There is at present no general agreement concerning the minimum population level which should enable a town to qualify for county borough status. But the contentions on the subject put before the Royal Commission on Local Government by the various associations of local authorities are by no means the last or only word on the subject. Various other suggestions have been made in favour of a minimum lower than the original figure of 50,000.

Thus, for example, the Public Libraries Committee observed that any town with more than 20,000 inhabitants must be regarded as able to maintain a library in a reasonable state of efficiency.<sup>2</sup> The late Sir Robert Fox, Town Clerk of Leeds, appeared to think that 10,000 was the minimum population which could be expected to provide the resources necessary to enable an area to be efficiently administered.<sup>3</sup> He accordingly suggested grouping small authorities into larger units of not less than this size. Education experts not infrequently name

<sup>1</sup> *R.C.L.G.*, p. 470. The minimum has now been raised to 100,000.

<sup>2</sup> *Report of Libraries Committee*, Cmd. 2868/1927, p. 33.

<sup>3</sup> *R.C.L.G.*, p. 381; *Evidence: Fox* (III, 512).

30,000 as the minimum population required for a town desiring to provide education service of all grades, in conjunction with combined authorities for special types of schools.

One other consideration may be mentioned in connection with the suggestion made in the foregoing pages that county borough status should in future be conferred with a more generous hand than in the past. Our grudging attitude in this matter is due, not only to the conflict of material interests resulting from the desire for emancipation on the part of the town and the fear of severance on the part of the county councils, but also to the distinction between different classes of boroughs introduced by Parliament in the legislation of 1888.

Before that year no one imagined that it was either necessary or desirable to have one kind of municipal authority for the largest cities and another kind for the smaller towns. All were municipal corporations, one and indivisible; all had franchise charters, ancient and honourable; all had borough councils, a mayor and several aldermen.

In introducing the Bill of 1888, Lord Salisbury's government decided to make a distinction between the ordinary run of towns and a few very large cities which, by reason of their vast commercial interests and general importance, were felt to be entitled to claim absolute autonomy in local matters.<sup>1</sup> During the passage of the Bill in the House of Commons, the Cabinet was persuaded, for reasons which have only recently been disclosed by the late Lord Long of Wraxall (at that time Parliamentary Secretary to the Local Government Board and largely concerned with piloting the measure) to allow a large number of other towns to be completely excluded from the jurisdiction of the county councils about to be established. The number of county boroughs originally stood at ten. By the time the Bill had found its way to the statute book there were sixty-one included in the schedule.

There was little principle involved in the selection of the

<sup>1</sup> Evidence of Viscount Long before the Royal Commission on Local Government (III, 563).



favoured towns. The choice depended largely on questions of hand-to-mouth expediency and political influence. As we have already seen,<sup>1</sup> the county boroughs do not form a true category so far as population, rateable value and territorial area are concerned: they do not constitute a homogeneous class of municipal entities.

Parliament has itself recognized the inconsistencies and anomalies of the situation created in 1888 by ignoring, in much of the legislation passed since that date, the constitutional distinction between county boroughs and non-county boroughs of certain size. During the ensuing forty years various Acts of Parliament conferred on non-county boroughs, equally with county boroughs, extensive powers in relation to elementary education, allotments, public libraries, housing and town-planning, gas, water, electricity and transport, the diseases of animals, food and drugs, infectious diseases, maternity and child welfare, milk and dairies, and a large number of other functions. Many of these activities were far more important than the "added functions" which are acquired when county borough status is acquired.

During the past few years, however, a recession has occurred in the powers of non-county boroughs. This began with the Education Act, 1944, which makes the county council the local education authority for all purposes within the administrative county. The Act, nevertheless, excludes from the scheme of divisional administration any borough or urban district whose population was not less than 60,000 in June, 1939, or which had not less than 7,000 pupils on the rolls of its elementary schools in March, 1939. Subsequent statutes have removed from non-county boroughs town and country planning, public health, fire brigades and other functions.

It may be said, therefore, that the historical developments of the present century, no less than the reasons of principle and convenience which have been urged in the foregoing pages, lend support to the idea of granting independent status to many of

<sup>1</sup> *Ante*, p. 21-26.



the towns of, say, 30,000 inhabitants and upwards, which are in many respects at present in a position of irksome subordination to the county. Without such a liberating movement it will be wellnigh impossible to establish one, and only one, local authority in each municipal area—a principle possessing overwhelming advantages compared with the chaos and confusion resulting from the existing multiplicity of administrative bodies.

Even apart from that, the reform of the municipal structure generally will demand an abolition of the unscientific and anomalous distinction between county borough, non-county borough and urban district, and some approach to a new formation of areas and authorities based on less obsolete ideas than those embodied in the existing framework. The position of the county council must obviously be considered. But there are ample safeguards against the undue depletion of the county council's resources contained in the proposals relating to the continued association of town and county authorities, both financially and administratively, through combinations of local authorities for particular purposes which must in any case be set up. Once it is realized that there is overwhelming justification for persuading or compelling local authorities to co-operate permanently in group formations, the real objections of the county council to the creation of county borough areas will disappear automatically. The only opposition likely to remain will be that grounded on vanity, the greed for power, and the desire to dominate, none of which is deserving of consideration by the statesman who desires to improve the municipal structure. The county councils will in any case derive large compensation by becoming (in conjunction with the District Committees) the sole administrative authorities for the entire county outside the independent towns.

### THE PROBLEM OF SEPARATE ENTITY

It does not require very much political insight to appreciate the inadequacy of arithmetic as a criterion of fitness to receive independent status. In the present state of knowledge, quanti-

tative factors, although relevant and helpful, and indeed indispensable, are by no means conclusive. We may survey all the data which statisticians can provide, from infantile mortality rates to figures of overcrowding; we can peruse tables showing tramway accommodation per head of the local population and the number of slipper baths for every thousand adult males; we can discover the expenditure on highways for each pound of assessable property in the locality, and the number and size of classes in elementary and secondary schools in the district. But when we have exhausted all the quantitative factors, we shall still be faced with certain qualitative phenomena before we can decide if an area is fit to have conferred upon it the status of an independent town.

It is extremely difficult to analyse the imponderable elements which make a number of individuals living and working in a particular area a true community for municipal purposes. Mere proximity, the bare fact of neighbourhood, is certainly insufficient to account for the consciousness of entity which exists among the members of such a community and which can be recognized without difficulty not only by those who partake of it but also by those outside. It is not necessary to invoke the aid either of Hegelianism or of mysticism to realize that there is a difference between "the place which is a place", with a real life of its own, and the place which is not a place in that sense.

One fundamental condition of every good system of local government must surely be that the town which is inhabited by a genuine community should have an independent council possessing the largest measure of freedom compatible with the enforcement of a national minimum of civilization on the one hand and an insistence on administrative co-operation with other local authorities on the other.

A place like Swindon, to take one example, ought clearly to have an independent council enjoying county borough status. Swindon is an industrial town planted by the Great Western Railway in the middle of Wiltshire. It is utterly different from the rest of the county. Its problems and outlook are distinct.



It has a communal life of its own; and incidentally the best local medical service in England. The inhabitants have a real sense of unity.

By contrast, ■ large number of the rural and urban districts established by the Local Government Act of 1894 are not "places" in any real sense of the word. They are merely conglomerates of ratepayers with an elected council to provide a water supply and maintain the drains. This is largely due to the narrow and unimaginative conception of local government which prevailed during the formative period in the latter half of the nineteenth century.

To the Victorians, municipal government was a negative affair, to be invoked only in the last resort when the community was threatened with some dire evil and the machinery of private enterprise had unaccountably broken down. There was ■ tardy and reluctant admission that municipal action was unavoidable in certain utilitarian and financially unprofitable fields; but a strong individualist feeling, epitomized in the social philosophy of Herbert Spencer, denied that local authorities should be allowed to embark upon activities other than those which the exigencies of the time rendered imperatively necessary. It is scarcely to be wondered at that local authorities, engendered in circumstances so unprepossessing and reared under conditions so unfavourable, should frequently have failed to attain the healthy development of civic maturity. All too often the rural and urban district councils, stamped by their very names with the frigid welcome which attended their birth, have remained the stunted, misshapen and impotent creatures their progenitors conceived.

There is no formula known to political science which enables us deliberately to create "the place which is a place"; nor conjure up at will the community imbued with a vital civic consciousness and a pervading sense of public spirit. All we can do is to provide conditions favourable to the growth of such an entity. The watchwords of those whose aspirations lie in that direction must be freedom and responsibility.



Conversely, if we cannot create such a civic community at will, neither can we destroy it: at any rate not without producing disastrous conflict and causing irreparable loss to the body politic. We cannot always erase municipal frontiers merely because they appear arbitrary on the map, without considering any of the imponderable elements in the situation. And so when Mr. G. D. H. Cole remarks that such places ■ Manchester and Salford, Newcastle and Gateshead, Brighton and Hove, are in each case "virtually single towns, held apart by a purely arbitrary administrative division",<sup>1</sup> we must remember that a good deal more social tissue may have grown up within these illogical administrative divisions than Mr. Cole is taking into account.

It is no longer practicable to lay down too stringent conditions ■ to what constitutes self-sufficiency before recognizing the claim of an urban community to acquire the status of an independent town. The Surrey County Council, in opposing the proposal to constitute Wimbledon a county borough, put forward the contention that Wimbledon was only a suburb of London, and was not a place which had an independent existence in the sense of being "a complete community" from both an industrial and residential point of view, a "complete civic organism covering ■ variety of interests".<sup>2</sup> It probably did not occur to the County Councils Association, or to the Surrey Alderman who gave evidence on their behalf before the Onslow Commission, that Surrey has itself become largely ■ suburb of London and that its inhabitants cannot be regarded as forming "a complete community" with a substantially "independent existence". This fact was not recognized by the county councils bordering the metropolis when their case was stated before the Ullswater Commission on London Government. And even if it had been irrefutably demonstrated to the fullest extent the county councils would not have regarded it as ■ valid reason for depriving Surrey of its independent county status and autonomous council.

<sup>1</sup> G. D. H. Cole: *The Next Ten Years in British Social and Economic Policy*, p. 331.

<sup>2</sup> *R.C.L.G.*, p. 325; *Evidence*: Holland (IV, 857).

## CONCLUSION

It is unlikely that any very definite agreement will be obtained regarding the qualitative conditions which ought to be fulfilled before the status of a county borough is conferred. As we have seen, even in regard to the measurable factors such as population there is great diversity of opinion, arising in the main from the conflict of wills and disagreement as to ends. The imponderable elements are too elusive even for definition in precise terms.

Despite these difficulties, I would nevertheless reiterate my belief that independent status should not be accorded automatically, on the fulfilment of specified conditions relating to size, wealth, territory or other measurable features. In the last resort, quantitative elements must give way to qualitative factors, in local government as in all other departments of life where human relations are concerned. There is no known method of testing or even ascertaining the civic consciousness. Yet it nevertheless exists, and is the vital spark which illuminates all the varied activities of a local council.

All that we can say is that no place should be regarded as a separate entity for municipal purposes unless there are signs that its inhabitants form a true social community, possessing a real sense of civic loyalty towards the locality, a conscious regard for the common weal, a solicitude for the welfare of the general body of citizens, and a genuine concern for the excellence of local institutions. Without such a spirit no place is likely to prosper socially, no matter how flourishing its economic life may be, nor how modern the drainage system nor how efficient the supply of electricity and gas and water. This is one of the lessons that is being learnt slowly and painfully in the United States of America.<sup>1</sup>

The lesson is still to be learnt by many persons in this country. One high official explained to the Onslow Commission that he looked upon his town, and others with similar charac-

<sup>1</sup> See *The City's Place in Civilization*: an address by Dr. Charles Beard: *Proc. 17th Annual Meeting of the Governmental Research Association* on October 15th-17th, 1928, at Cincinnati, p. 90 et seq.



teristics, ■ "commercial concerns entrusted to the local authority, who in managing them had to compete with the authorities of other similar towns."<sup>1</sup> This frank admission by the chief executive officer of a county borough that he regards the city as a mere business enterprise not unlike a department store or an hotel may be compared with the published statements made by Mr. T. Q. Newell when standing for the Office of Mayor of Oklahoma City a few years ago. "I stand for a higher civic tone," this candidate declared in the large advertisements which appeared daily in the local newspapers. "Americans like to advertise their virtues. I stand for virtue-loving and virtue-advertising Americans."

Neither the low commercial outlook expressed by the Town Clerk of Eastbourne nor the crude hypocrisy of the appeal to the Oklahoma voters is likely to prove ■ source of inspiration for the building of a great city. Freedom and responsibility are of small value save as opportunities for civic achievement high in purpose and not unworthy in execution. The constructive proposals made in the preceding pages are designed to produce a municipal structure which will aim at a more creative attainment than either the desire to run the collective body of citizens as a purely business undertaking or to provide the ratepayers with facilities for advertising their virtues.

The material achievements of a municipal community will never soar high into the realms of imaginative effort unless its social architecture is informed by a spirit which is not material. The mind must rise above the material in which it works; and the ultimate aims of a community lie beyond the civic institutions in which its immediate purposes are manifested. No matter how excellent and efficient those institutions may seem, the vision of the mind must reach beyond the vision of the eye and the senses of the body.

<sup>1</sup> *R.C.L.G.*, p. 341; *Evidence*: Fovargue (V, 1169).



**PART II**  
**THE FUNCTIONS OF LOCAL AUTHORITIES**

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## PART II

# THE FUNCTIONS OF LOCAL AUTHORITIES

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### PRINCIPLES OF THE CONSTITUTION

THE practical work of government is far less centralized in Great Britain than in many other countries, such as France, though I have described in the Prologue the strong tendency towards centralization which has been operating in recent years. But the British system is nevertheless dominated by the idea that all legislative power is presumed to lie in the first instance in the King in Parliament and all executive power in the Crown—a twofold constitutional principle which represents the very apotheosis of centralization.

This vast mass of power, which is notionally supposed to have been concentrated somewhere between Buckingham Palace and the Houses of Parliament—say in St. James's Park—has been freely delegated to an immense mass of governing organs of one sort or another, not merely within the immediate realm of Great Britain and Northern Ireland, but also within the more far-reaching territories of the Empire. All these organs are theoretically in the same position. All derive their constitutional power from a specific delegating act of the King in Parliament.

Among the various classes of local authorities in Great Britain on whom administrative duties have been conferred there are large differences of size, wealth and power; but there is little that can ■ yet properly be described as a hierarchy. The more important local councils possess no authority, with a few exceptions, over the minor bodies, although they may administer services in the areas of the latter. Each local authority is more or less independent within its own defined



sphere, and is free to carry out its duties without interference from its neighbours. The system of default powers, whereby a county council is, in certain cases, empowered to act in place of a recalcitrant District or Parish Council, does not invalidate what has been said above.

Nevertheless, recent legislation does introduce what may be the beginning of a hierarchical system in the counties. The Education Act 1944, makes county councils and county borough councils local education authorities and abolishes the education powers in regard to elementary education previously possessed by boroughs and urban districts of a certain size. At the same time the statute requires each county council to delegate certain of its functions to Divisional Executives which are to be specified in its scheme. Boroughs and urban districts can be excepted from any scheme of divisional administration by Ministerial direction (and must be excluded if they are of a certain size). An excepted borough or district council will then have to carry out the duties delegated to it in accordance with a scheme which, after consultation with the local education authority, it will submit to the Minister.

The National Health Service Act, 1946, which transferred many local health functions from district councils to county councils took another step in the same direction. The Act permits area sub-committees to be set up in different parts of the county and authorises the health committee to delegate functions to them. The area sub-committees always contain both county councillors and district councillors, although the relative proportions between the two elements vary from one county to another.<sup>1</sup> The Town and Country Planning Act, 1947, went still further by providing that county councils might delegate planning control functions to county district councils. Here there is straightforward delegation by the upper tier to the lower tier of councils.

The concept of delegation has many possible and actual meanings. In present-day local government the tendency is for the

<sup>1</sup> Emmeline W. Cohen: *Autonomy and Delegation in County Government. A Study of Delegation in Education and Local Health Administration*, p. 55 and *passim*.

delegating council to regard the delegate as a subservient organ which must carry out not merely the former's policy and principles, but also its detailed instructions in matters of day-to-day administration. District councils or similar bodies exercising delegated functions often possess a negligible amount of freedom and responsibility.

The relationship between central and local government is complex and diverse. The central departments exercise in the aggregate ■ vast amount of power over the local authorities. Some of this power is derived directly from legislative enactment, and takes the form of general regulations or orders expressly authorized by Act of Parliament. Other manifestations consist of sanctions or approvals which may be given or withheld, permission to borrow money or do this and that which may be accorded or refused. A great deal of control is exerted indirectly through the power of the purse. Local authorities have for generations received, in ever-increasing measure, financial assistance from the national exchequer. These grants are paid only if certain conditions are fulfilled to the satisfaction of the national government.

But the dominating feature of the whole situation is the conception that the residuary powers of government lie, according to the law of the constitution, in the King in Parliament, which means in practice the House of Commons and the Cabinet. The result of this is that local authorities (other than borough councils)<sup>1</sup> can lawfully spend money only on such services ■■ they are expressly empowered to provide. The freedom to do what they will, enjoyed by the so-called "Home Rule" cities in the United States,<sup>2</sup> is unknown in modern England, where express legislative authority is required to justify even the most trifling municipal activity involving the expenditure of public money.

<sup>1</sup> Until the decision in *Attorney-General v. Leicester Corporation* (1943) Ch. 86 the principle was believed to apply to all local authorities, but the High Court held in that case that the Local Government Act, 1933, has freed borough Councils from the restrictions imposed on them in the Municipal Corporations Act, 1882.

<sup>2</sup> Cf. Ernest S. Griffith: *The Modern Development of City Government in the United Kingdom and the United States*, pp. 267 and 429.



City government in England started, in historical times at least, with a series of individual charters granting corporate rights and franchises, immunities and privileges, to specified groups of burgesses residing in particular towns. During the nineteenth century the great mass of these boroughs came to be regulated by the Municipal Corporation Acts, which imposed a uniform structure on the straggling diversity which had hitherto existed. In the last quarter of the century, when the county councils, the district councils and the parish councils were set up, uniformity was again the keynote of the legislation. The long series of important measures conferring additional powers and duties on these newly created or recently reformed bodies, such as the Acts relating to public health, education and housing, nearly always meted out similar and equal treatment to all local authorities falling within each class or sub-class.

Meantime, a vast number of Local Acts of Parliament, promoted by individual local governing bodies, including especially the borough councils, was operating in an opposite direction and producing diversity of function where the general legislation sought to impose uniformity. This process has proceeded without interruption, and the larger municipalities have persuaded Parliament to pass some hundreds or perhaps even thousands of private Bills affecting in each case only a single locality.

The present method of distributing power among local governing bodies is a survival from nineteenth-century conditions, when the municipal authorities which now exist were either not yet established or else had fallen from grace into a degenerate condition of corruption and inefficiency. The vital question to-day is whether the methods and safeguards which were necessary and reasonable in a period of inception, reformation or embryonic development, are appropriate and desirable now that a stage of maturity and fuller growth has been reached.

I propose to discuss this question here in reference only to English local government. But the same question is con-



stantly being raised all over the world in one form or another by persons who are striving for the progressive development of democratic institutions.

### THE HEYDAY OF LIBERTY

In medieval times the powers of boroughs were vague and nebulous. They chiefly depended on the charters which the boroughs obtained from the king or from their local lord. This vagueness had the advantage that when a borough wanted to engage in any activity, it was difficult to raise an objection on legal grounds.<sup>1</sup> Hence in the 16th century boroughs cleaned and lighted their streets, provided fire brigades and piped water supplies, appointed salaried doctors to care for the poor, relieved the unemployed, and laid down stocks of municipal coal and candles for use when these commodities were in short supply or unusually dear.<sup>2</sup> The borough corporations nevertheless knew that in order to exercise certain governmental functions, such as the levying of local taxes, or interfering with real property, it was necessary to obtain specific legal authority. These powers were at first conferred by royal grants, commissions, or licences, but later an Act of Parliament, either local or general, came to be the usual method. Parliamentary powers were often sought to compel the inhabitants to pave the streets in front of their houses or to rebuild their houses; or again to enable corporations to lay pipes on land which they did not own. Although there was thus an incipient control over the activities of the boroughs which could be enforced in the Courts, no municipality in medieval or Tudor times was subject to legal restriction in regard to the services which it wished to provide or the scope of its functions. Nor can we trace any restraints of this kind in the Stuart period. Individual public officers, such as the justices of the peace, and *ad hoc* bodies like the Commissioners of Sewers or the Turnpike Trusts, were always liable to have their actions questioned in a

<sup>1</sup> T. F. T. Plucknett: *A Constitutional History by Taswell-Langmead* (10th edition), p. 764.

<sup>2</sup> These illustrations are taken from J. H. Thomas: *Town Government in the Sixteenth Century*.

Court of Law, and set aside if they had abused or exceeded their statutory authority, but their position was quite different from that of a borough corporation. The borough enjoyed much greater freedom and discretion, except perhaps when it was exercising specific powers intended to authorize particular functions of the kinds we have mentioned.

The restrictions at present placed on the enterprise of local authorities of all classes are, indeed, to a greater extent than is generally recognized, the outcome of the historical development of English local government in the nineteenth century. Up to the appointment of the Royal Commission on Municipal Corporations in 1832 it was generally believed that corporate bodies could apply their funds and enter upon such activities as the corporators desired. Blackstone, in his *Commentaries on the Laws of England*, first delivered as lectures at Oxford in 1758, stated explicitly that a Corporation may "sue or be sued, implead or be impleaded, grant or receive, by its corporate name, *and do all other acts as natural persons may*".<sup>1</sup> This statement of the law was preserved intact, without modification, by the learned Doctor Burn, who edited the 9th and 10th editions of the celebrated *Commentaries* in 1783 and 1787 respectively. Corporate bodies, Blackstone continued, had general duties "like those of natural persons . . . of acting up to the end or design, whatever it be, for which they were created by their founder." Those duties were not, however, an exhaustive definition of their powers, which were in law no more limited than those of ordinary individuals.

Nor were the corporate funds to be applied only to particular authorized purposes. During the General Election of 1827, the corporations of Leicester and Northampton shamelessly used their corporate property, powers and authority to get certain Tory members elected to the House of Commons. There was ■ public exposure and much violent criticism of this action in Parliament,<sup>2</sup> and a Bill was introduced to restrain municipal

<sup>1</sup> I Book I, ch. 18, ii.

<sup>2</sup> *Hansard*, 1826-7, xv, vols. 606 and 1198.



corporations from applying their funds to electoral purposes. Lord Eldon, then Lord Chancellor, resisted the Bill when it came before the House of Lords, and authoritatively informed the Lords that "Corporations were situated precisely the same as individuals, they held some property in trust, as individuals held property in trust. . . . They also held property not in trust, and over such property the Corporation exercised the same right as individuals over their property. There was no difference known to the law."<sup>1</sup>

The Lord Chancellor's view of the unrestricted powers of corporate bodies was shared, according to the Royal Commission on Municipal Corporations, by almost all the mayors, aldermen and burgesses of the chartered boroughs. "In general" they reported in 1835 "the corporate funds are but partially applied to municipal purposes, such as the preservation of the peace by an efficient police, or in watching or lighting the town, but they are frequently expended in feasting, and in paying the salaries of unimportant officers."<sup>2</sup> Some of the boroughs, continued the Commissioners, considered that the corporate property ought properly to be regarded as a trust fund to be used for public purposes. But this was only a moral sentiment. "Few corporations admit any positive obligation to expend the surplus of their income for objects of public advantage. Such expenditure is regarded as a spontaneous act of private generosity, rather than a well-considered application of public revenue, and the credit to which the corporation in such a case, generally considers itself entitled, is not that of judicious administrators, but of liberal benefactors."<sup>3</sup>

The accuracy of the Commissioners' opinion on this subject has been called into question by Sidney and Beatrice Webb, who pointed out that whatever theories may have been current as to the rights and liabilities of corporate members, many

<sup>1</sup> *Hansard*, 1828, xix, col. 1745.

<sup>2</sup> *Report of Royal Commission on Municipal Corporations*, p. 45, 1835, *Parl. Papers*, vol. xxiii.

<sup>3</sup> *Report of Royal Commission on Municipal Corporations*, p. 45, 1835, *Parl. Papers*, vol. xxiii.



municipal corporations in fact held their funds on trust for public purposes; and that an effective sense of public obligation arose naturally from this habitual practice. "Besides the many definite duties which the municipal corporation had assumed" they write "for the benefit and advantage, not of the Freemen alone, but of the Borough as a whole—such as the administration of justice, the management of the Market, the administration of the Port, the making of By-laws, and the suppression of nuisances—it was indisputable that it had, in the past, intervened in any emergency, it had met new requirements, it had acted generally, and had been recognized, as the corporate representative of the Borough as a whole."<sup>1</sup>

No matter how the corporate property might in fact be spent, no matter how completely it might in practice be devoted to public purposes benefiting all the inhabitants of the borough, the belief of the Cambridge burgess who declared to the Royal Commissioners of 1835 that the corporators "had a right to do what they pleased with their own" appears to have been held on a widespread scale. It seems that nowhere was there to be found a burgess, a lawyer or a statesman—or anyone else for that matter—who believed that the public purposes to which the corporate property might be devoted were limited or defined by the law of the constitution. The idea that a borough could be restrained from spending part of its funds on any object for the general benefit of the town which the corporators might consider desirable, merely because there was no express authority contained either in the charter of incorporation or in public or local legislation, would have appeared an absurd and pernicious heresy almost up to the middle of the nineteenth century.

The prevailing conception of freedom in this respect was, moreover, preserved in a fundamental sense by the Municipal Corporations Act of 1835, despite the fact that that measure deliberately deprived the individual corporators of their private interest in the corporate property. The statute declared that the income from such property was in future to go into the

<sup>1</sup> *English Local Government: The Manor and the Borough*, p. 735.

Borough Fund, and after the payment therefrom of debts, salaries and various specified expenses, the surplus was to be applied "for the public Benefit of the inhabitants and improvement of the Borough".<sup>1</sup> No limitations or restrictions of any kind were laid down or even suggested. If the amount was insufficient, the council could raise ■ rate.

### MID-VICTORIAN RESTRAINTS

The doctrine of *ultra vires*, of which there are traces to be found in earlier centuries, did not seriously affect local government until the second quarter of the nineteenth century.<sup>2</sup> In the eighteenth century there had not been the slightest attempt by many of the trading associations or chartered companies which then existed to limit their activities to the terms of their charters; and this made it necessary to introduce certain statutory restrictions after the scandal of the South Sea Bubble.<sup>3</sup> But the principle of *ultra vires* did not emerge in its modern form until about the year 1843.<sup>4</sup> Even then it was mainly used, not to curtail the activities of municipal corporations, but to limit the powers of the new joint-stock railway companies which were daily growing in size and strength. At this period the great railway lines were being projected and developed. For the making of these lines larger funds were required than any partnership could secure, and compulsory powers were needed far beyond those which could be conferred by Royal prerogative or charter. Hence the companies made application to Parliament for corporate powers, and these were granted amid great excitement and apprehension.

Shortly after these bodies had been created, questions arose as to the exact nature of the powers, rights and duties which had been conferred on them. Parliament had made them corporations. But corporations, under the common law notion, were civil persons or juristic entities differing only in physical

<sup>1</sup> Municipal Corporations Act 1835, 5 & 6 Wm. IV, chap. 76, Sect. 92.

<sup>2</sup> Seward Brice: *A Treatise on ultra vires* (1893), pp. v, ii.

<sup>3</sup> W. S. Holdsworth: *A History of English Law*, vol. vii, pp. 2102-3.

<sup>4</sup> *Colman v. Eastern Counties Railway Co.* (1846) 10 *Beavan's Reports*, p. 1; *East Anglian Railway Co. v. Ib.* (1851) 11 C.B., p. 775.



facts from natural persons. Could a railway company subsidize a steamship line running combined services, if minority shareholders objected? Could a railway company engage in trading in coal? In answering this type of question in the negative<sup>1</sup> the courts stated the doctrine of *ultra vires* for the first time. The doctrine was formulated by Pollock, C. B., in 1859 in the following words: "There can be no doubt that a Parliamentary Corporation is a Corporation merely for the purposes for which it is established by Act of Parliament; and it has no existence for any other purpose. Whatever is done beyond that purpose is *ultra vires* and void."<sup>2</sup>

The principle was invented by the courts on grounds of public policy or social expediency in order to meet unforeseen circumstances and enable a new situation to be controlled. It was subsequently extended to various other transactions where doubt existed as to what powers had been inferred by Parliament. It was applied to local government affairs apparently because local authorities happened to be bodies incorporate<sup>3</sup> operating under statute or charter and therefore resembling in this one respect joint-stock railway companies. There does not appear to have been an adequate appreciation of the far-reaching results which would ultimately ensue, nor an understanding of the fundamental difference between a joint-stock company trading for profit and a local governing authority providing public services in the common interest and regulated

<sup>1</sup> *Attorney-General v. G.N. Railway, 1 Drewry & Smith*, p. 154.

<sup>2</sup> *National Manure Co. v. Donald*, 4 H. & N., p. 8; 28 L.J. Ex., p. 185.

<sup>3</sup> Dr. Mary Cairns, one of my former pupils, wrote an excellent thesis on "The Application of the Doctrine of *Ultra Vires* to local authorities" for which she received the Ph. D. degree in the University of London. In this she collected all the early cases. The first application in the sphere of local government would appear to have been *Attorney-General v. Aspinall* (1837), 7 L.J. Ch. 51; 1 My & Cr. 613. In that case the Court held that the Act of 1835 imposed a public trust on the rents and profits of property belonging to a municipal corporation; and hence that the doctrine of *ultra vires* would render illegal any expenditure from them on purposes other than those authorized by the statute. In consequence, Liverpool Corporation was restrained from endowing churches from the borough fund, although they had previously done so. *Attorney-General v. Mayor, etc., of Wigan* (1854), 5 De Gex., MacNaghten & Gordon's Reports, p. 52; *Bateman v. Mayor, etc., of Ashton-under-Lyne* (1858), 3 H. & N., p. 323; *R. v. Mayor, etc., of Sheffield* (1871), Law Reports, 6 Queen's Bench cases, p. 652.



by the Municipal Corporations Act or similar statutes. Prior to the middle of the nineteenth century there seems to have been no attempt in practice, nor any right in law, to limit the activities of local authorities, provided they acted in conformity with the general law.<sup>1</sup>

The doctrine of *ultra vires* had the effect of making unlawful the expenditure of money by a local authority on any object or purpose other than those expressly or impliedly authorized by the charter, statute or other enabling instrument by means of which a council can acquire power. The legal restrictions placed on local authorities arise entirely from the existence of this principle.

It would, of course, be historically untrue to suggest that extensive use of their vast potential freedom of enterprise was actually made by the unreformed municipal corporations of the seventeenth, eighteenth and early nineteenth centuries, at any rate so far as genuine municipal services in the modern sense were concerned.<sup>2</sup> Such "unauthorized" activities as they engaged in consisted for the most part of wining and dining, political manipulation and the distribution among the members of benefits derived from the corporate property. But the reason for this absence of enterprise lay primarily in the obsolete or degenerate condition into which the organs of corporate government had fallen, and their inherent unsuitability for the task of modern administration, rather than in any lack of legal power.

When Parliament undertook the task of constructing a new system of local government to meet the urgent civic problem to which the industrial revolution had given rise, the question of limiting the powers of borough councils did not call for consideration. Public opinion was, however, alive to the importance of eliminating corruption and ensuring honest administration; and this explains the various requirements of the Municipal Corporations Act, 1835, safeguarding both the revenue of a borough and its method of expenditure. The problem was not

<sup>1</sup> Cf. J. H. Thomas: *Town Government in the Sixteenth Century* passim.

<sup>2</sup> *Ib.*

how to limit power, but how to compel the effective and proper exercise of it; not how to restrict action, but how to enlarge initiative. Despite this, the whole tenor of contemporary thought and feeling was indisposed to do more than attempt a piecemeal solution of the particular problems which arose in turn as the industrial revolution passed from one phase to another.

Thus, the Poor Law Act of 1834 sought to remedy, through the separate machinery of the Boards of Guardians and the Poor Law Commissioners, the confusion, inefficiency and wild extravagance which characterized the relief of destitution. The Highway Act of 1835 and its successors set up Highway Authorities to remedy the appalling condition of the parochial roads. The Public Health Acts 1848-1875 established Sanitary Authorities to stem the tide of death and disease which threatened the nation from the unhygienic conditions of life produced by the intense concentration of population in the crowded industrial centres. The current belief in *laissez faire* which dominated the Victorian age did not favour any attempt at municipal action beyond the minimum rendered imperative by immediate danger to life and health, or the safety of person or property. This explains the setting up of *ad hoc* authorities for dealing with poor relief, highways, public health, education and other services; the failure to recognize, for nearly fifty years, that such an obvious public utility as the gas supply was a fit subject for municipal enterprise; and the absence, until the last quarter of the century, of any reorganization of the general structure based on a more or less comprehensive view of local government. When at last, in 1882, in 1888 and 1894, the Municipal Corporations Act and the Local Government Acts were passed, the formative period of municipal development had already passed its zenith, and the new Parish and District and County Councils, and the reconstructed Borough Councils, took shape under the shadow of the *ad hoc* bodies which they superseded. It was an established rule that local authorities, like good children in a Victorian household, should do what they were expressly told they might do, and little or nothing else.



The result of this conception, enforced by the doctrine of *ultra vires*, is that we evolved a system of local government which is remarkably good in certain defined spheres of activity, but at the same time excessively narrow in scope and unimaginative in outlook. In the fields of public health, maternity and child welfare, the police forces, fire brigades, education, public utility services, highway administration and the provision of new houses, results of a very high order have been achieved by the larger and more progressive authorities. Despite the failings of many of the smaller and poorer authorities, and the shortcomings of some of the larger ones, the national attainments in these spheres, particularly in the larger towns, compare very favourably with anything that has been done abroad.

But although substantial progress has been made in these fields, the whole development of local government has suffered severely from the restrictions which are at present placed on the spontaneous activities of local authorities (but from which borough councils have been released since 1943).

It can no longer be assumed that the ideal system of municipal government is one in which the local councils perform only the indispensable minimum of service required to preserve the elementary necessities of civilization. Many people feel to-day that the local authorities ought not to confine their activities merely to those things which are nobody else's business or to those which involve some measure of compulsion or statutory monopoly, nor yet only to those which require subsidizing from the rates; but that, in addition, they should properly undertake all those other things which municipal bodies can do *better* than the private individual or voluntary group or trading corporation.

#### THE LEICESTER CORPORATION CASE

As we have seen, the doctrine of *ultra vires* was originally applied, in the sphere of local government, to the municipal corporations reformed by the Act of 1835, and those subsequently created and brought under its provisions. Until 1888, indeed,



there were no other general local authorities (apart from the Metropolitan Board of Works in London), although there were many *ad hoc* bodies constituted for special purposes.

The Municipal Corporations Act, 1835, was superseded by the Municipal Corporations Act, 1882, which re-enacted all the relevant provisions of the earlier statute. In 1933, a great consolidating and codifying measure was passed entitled the Local Government Act, 1933, which brought together for the first time the legislation of a constitutional and general kind affecting all local authorities in England and Wales outside London. After this Act was passed it was generally thought, not only by councillors and officers but also by their legal advisers, that no change had been introduced ~~as~~ regards the restrictions on local authorities; and that expenditure not expressly authorized by statute or for which implied authority could be inferred from the terms of an enabling statute, would be *ultra vires* and therefore illegal for any type of local authority.

The case of Attorney-General v. Leicester Corporation,<sup>1</sup> decided in 1943, showed that this belief was not well founded as regards municipal corporations. The Municipal Corporations Act, 1882, like the earlier Act of 1835 which it superseded, stipulated that the general rate fund of a borough should be expended on purposes specified in one of the schedules. These included the salaries of the borough officers and constables, election expenses, and various other items, together with all other expenses necessarily incurred in carrying out the Act and for which provision was not otherwise made. It was in consequence of this enactment that the courts applied the doctrine of *ultra vires* to local authorities, although Municipal Corporation Acts of 1835 and 1882 both expressly declared that any surplus of the borough fund was to be applied for the public benefit of the inhabitants and the improvement of the borough—a formulation by financial power of the widest possible scope. The Local Government Act, 1833, omitted the list of authorised categories of expenditure contained in the earlier legislation, and Mr. Justice Bennett there-

<sup>1</sup> (1943) Ch. 86.

fore held that the restraints imposed on borough councils by the doctrine of *ultra vires* were now removed. He accordingly took the view that ■ borough council can generally speaking do anything an ordinary individual can do.<sup>1</sup> So far as expenditure is concerned, however, their freedom is limited to payments out of the general rate fund, and does not extend to reserve funds, which must still be used only for purposes specifically authorized by statute.

This change in the law is of far-reaching significance. It has not so far been confirmed or even considered by an appellate court; and at least one legal writer of repute has expressed doubt as to its correctness.<sup>2</sup> My own view is that the decision is correct. Moreover, I would assert that this is what the law ought to be, even if it were not what the law is. In any event, however, the decision applies only to municipal corporations, which by reason of the fact that they are created by charter, enjoy a different legal status from that of any other type of local authority in Britain. County councils, urban and rural district councils, and parish councils, are statutory corporations with no common law powers. They are merely the creatures of the legislation which brought them into existence, and the law assumes that they have no purposes other than those defined in the relevant Acts of Parliament.

There is some reason to doubt whether borough councils (including, of course, county borough councils) fully realize the import of the decision in the *Leicester* case. They have not shown any obvious signs of recognizing that the fetters which have shackled the activities of every town in Britain for over a century have been struck off at ■ single stroke. Or is it merely an example of long-endured restrictions engendering inhibitions which persist after the external restraints are removed? Have our local authorities lost the capacity for the spontaneous initiative and development of services "for the public benefit of the inhabitants and the improvement of the borough"? This would indeed be a serious state of affairs, for it would mean that the very spirit of local self-

<sup>1</sup> *Ib.* p. 93.

<sup>2</sup> Hart's *Introduction to the Law of Local Government and Administration*, 5th edition, p. 276.



government had divided, and will eventually wither away, like the state in the Marxist fairy story.

### PRESENT NEEDS

It is not possible to discuss here the extent to which the powers at present possessed by local authorities in all the various spheres of local government are adequate to meet modern needs. Such a study would involve an elaborate investigation of every municipal function in turn: health, housing, education, police, town-planning and so forth. A survey of this kind would in any case be unsatisfactory by reason of the difficulty of separating, for purposes of discussion, the question of insufficiency of power from the allied question of the degree to which existing powers are fully exercised in each one of these fields.

It is not proposed, therefore, to embark on an investigation which would involve a realistic study of every branch of local government activity. I shall content myself with indicating certain directions in which municipal action appears to be specially called for, and devote the remainder of the discussion to an argument showing the need for developing certain cultural fields which have so far scarcely been tilled at all in this country.

It must not be thought, however, that in advocating an extension of municipal powers in certain new directions it is necessarily assumed that local authorities already exercise their existing powers up to the very hilt, or that every little county district or non-county borough, having achieved the maximum result possible under the present law, is waiting breathlessly for Parliament to give it new fields to conquer.

Would that such a picture were true! Unfortunately it is not. The bald fact of the matter is that in many places, especially among the smaller authorities, existing powers are by no means fully used. A recent inquiry has been made by the Fabian Society concerning the extent to which local authorities exercise their permissive powers in the spheres of housing; loans to private persons to enable them to purchase their own houses; many different aspects of public health, ranging from smoke



abatement to the regulation of common lodging houses; entertainment; physical training and recreation; the provision of civic restaurants; the provision of welfare for disabled persons, and assisting voluntary organizations to provide feeding or recreational facilities for old people; national health functions such as providing domestic help in cases of illness or confinement, etc. The results of this questionnaire show that while there are large variations in the extent to which use is made of important optional powers, full advantage is not taken by any class of local authority of the opportunities open to them in these several fields of activity. The conclusions which emerge from the study are that the most enterprising authorities in all cases are those with a minimum population of 100,000 and a rateable value of not less than £400,000. The smaller and poorer authorities are the least enterprising, partly owing to their limited financial resources and partly owing to lack of competent staff. The county boroughs are the most enterprising type of council; and this fact leads Mrs. Crane to suggest that the civic pride created by greater municipal responsibilities also encourages local enterprise. "The examples of the really progressive councils," she writes, "show that given a sense of local pride and adequate population and financial resources local government can provide a sturdy but flexible framework for imaginative and resourceful experiment."<sup>1</sup> Conversely, the backward brethren are often the victims of an obsolete and unsuitable structure, and the enquiry points to the need for a reorganization of the areas and authorities of local government.<sup>2</sup>

More than 30 years ago Sidney and Beatrice Webb remarked that the amount of capital administered by local authorities would probably be doubled or trebled if these authorities were all even as energetic and enterprising as the best among them. The extent and range of the direct administration would be greatly increased, they pointed out, if it becomes the rule for local authorities, in their position of association of consumers, to free them-

<sup>1</sup> Peggy Crane: *Enterprise in Local Government*. (Fabian Research Series No. 156) pp. 36-7.

<sup>2</sup> *Ib.* p. 35.

selves from their present subjection to rings and price-agreements among municipal contractors, by producing for themselves, individually or through their federations, like the co-operative societies, as many as possible of the commodities they require. Eventually, they suggest, as much as one half of the whole of the industries and services of the country may fall within the sphere of local government.<sup>1</sup>

The device of joint action is particularly well suited to the production by local authorities of commodities required to satisfy their own needs. A common service such as the insurance of municipal buildings against losses by fire might be profitably undertaken at once by local authorities acting in co-operation. There is, again, no reason why local authorities should not conduct their own banking service, and jointly undertake the flotation of municipal loans through a central bureau. They could also, without resort to increased powers, form a federation for the mutual exchange of surplus products and the joint disposal of waste substances of every kind.

A great many of the supplies at present purchased by local authorities from private contractors could, moreover, be manufactured by the municipalities themselves at prices lower than those they now have to pay. Direct labour in building is already gradually making its way on its own merits, in a large number of areas; and the city of Sheffield has established a printing works which successfully undertakes all the printing required by the municipality. But many commodities, such as the uniform clothing required for the corporation staffs, the books and equipment for schools and libraries and other institutions, could best be produced, not by each local authority acting separately, but by all of them pooling their joint needs and mutual resources. Why should there not be, as Mr. and Mrs. Webb suggested, a federation of local authorities for the manufacture and distribution among the members of practically all the innumerable articles that are now purchased by them from

<sup>1</sup> S. and B. Webb: *A Constitution for the Socialist Commonwealth of Great Britain*, pp. 238, 242.



profit-making traders? The local authorities have the advantages of ■ known, certain and regular demand, abundance of capital at the lowest possible rate and a total absence of bad debts. There seems no reason why they should not embark on productive enterprise through ■ federation not less extensive and successful than those established by the English and Scottish co-operative societies.<sup>1</sup>

All this, moreover, could for the most part be undertaken without increasing the powers which local authorities at present possess. Our immediate concern here, however, is with an extension of the powers accorded by the law to municipal bodies.

The most obvious examples of services which local authorities ought immediately to be permitted to undertake are the handling of the milk supply and the distribution of coal. The milk supply of this country is in many ways ■ disgrace to a civilized nation, and the present methods of distribution are costly, unhygienic and inefficient. Yet local authorities have no power to undertake the collective provision of a purer and more adequate supply. The wasteful and uneconomic nature of the existing methods of distributing coal from pithead to consumer were revealed in the course of the evidence given before the Royal Commission on the Coal Industry in 1925. That Commission, which observed that "the present system of selling appears to carry competition to excess", recommended that local authorities should be permitted to engage in municipal trading in coal. Most of the members of the Sankey Commission of 1919 had approved a similar plan, subject to the proviso that no charge should be allowed to fall on the rates.

It was not suggested that the local authorities should be given anything in the nature of a monopoly, but only that they should be permitted to compete with private distributors. The representative of the coal distributors raised no objection to the proposal before the Samuel Commission, apparently believing that the retail merchants would have no difficulty in holding their own.

<sup>1</sup> Webb: *op. cit.* p. 243.



Municipal trading in coal, declared the Royal Commission of 1925, "might have useful results in the directions that are desirable, and we recommend that legislation should be passed to give effect to it".<sup>1</sup> It will not be practicable, they added, to apply a definite prohibition of recourse to the rates; for if a local authority did in fact incur losses in any particular year, it would be obliged to pay its debts, and it would, as a rule, have no means of doing so except from the rate fund. The control of the ratepayers would usually be sufficient to prevent the continuance of unsuccessful trading, but it might be advisable to provide in addition for intervention by the Ministry of Housing and Local Government, or of the Scottish Board of Health, as the case might be, in necessary cases. In any event they recommended that after a period of two years the position should be reviewed by the Mines Department (now the Ministry of Fuel and Power) with a view to determining what reduction of expenses had been possible, and what further measures, if any, were required.

Despite this unanimous recommendation by a Royal Commission composed of persons not believed to possess preconceived ideas as to the desirability of extending municipal enterprise, and anxious only to promote the prosperity of the coalmining industry, nothing has so far been done to enable local authorities to undertake this form of trading activity.

Another sphere of activity into which municipal authorities should forthwith be permitted to enter is the establishment of savings banks. This question was enquired into by a Committee appointed for the purpose in 1926 by the Treasury, which reported against their extension during the next decade. It would take us too far afield to examine in detail the findings of this Committee. But it may confidently be asserted that the Report of the Committee contained little that can be regarded as either convincing or conclusive in the way of argument against the extension of municipal savings banks. The ill-fated Labour Government of 1930 indicated that it would be prepared to assist cities of not less than 150,000 to obtain Private Bill

<sup>1</sup> Cmd. 2600/1926, p. 93.

powers from Parliament to establish municipal banks. It is regrettable that general legislation has not been passed on the subject, but it is to be hoped that the larger county boroughs will make use of their opportunity to petition Parliament.

### THE LIMITATION OF POWERS

I do not wish to enlarge at length upon the desirability of extending the functions of local authorities in the particular fields mentioned above, because the impotence of municipal bodies in these spheres is only a special aspect of the general impotence from which most of them suffer under the present system, and it is with these general limitations that I am now concerned. There are a hundred-and-one services which local authorities ought to undertake, and should indeed be encouraged to provide. Those services vary from place to place. Here it may be a municipal hotel that is required, elsewhere a municipal laundry or a recreational institute. The fundamental point is that where some obvious local need exists, the local authority ought to be empowered to satisfy it without being hindered through lack of express statutory authority.

Only borough councils possess any wide reserve of powers at present. And even this depends on a single decision by a High Court judge, whose judgment has not been reinforced by the support of the Court of Appeal or the House of Lords. Moreover, the powers flowing from the Leicester Corporation Case relate only to the expenditure of money and do not comprise regulatory powers, which are often of great importance in local government. The only method at present available to enable local authorities to obtain larger powers is for the local council to petition Parliament for a Local Act. The Private Bill procedure is cumbersome and expensive and slow, and a Private Bill Committee frequently reports adversely on proposals contained in Bills promoted by local authorities for no discernible reason other than that the powers sought are novel or of a kind not conferred under the general law. The Private Bill procedure appears to be largely based on the purely negative assumption that nothing of importance is to be



permitted unless an overwhelming need for it can be proved in advance to a legislative committee unacquainted at first hand with local conditions. No really novel enterprise of any magnitude received favourable consideration from the Local Legislation Committee which until recently dealt with all Bills promoted by local authorities. The Annual Reports of the Committee reveal a singular lack of imagination, and suggest that the Committee regarded its own function as mainly that of confining the functions of local authorities within the bounds set by convention and tradition.

The attitude of the Committee towards certain clauses in the Bill promoted by the Sheffield Corporation in 1929 may be taken as a typical illustration of its general outlook. One of the clauses of this Bill was designed to enable the city council to control sky signs, not only in the interests of safety, but also from the point of view of the amenities of the town. Counsel for the county borough said he could not understand why it was objected that the corporation should not be allowed to consider the amenities of the city in this matter. They did not want to do away with sky signs, but only to control them.

The Chairman (Sir Walter Raine): "You want to control people out of existence in Sheffield. I have been amazed during the last week at all these clauses you have been asking for. Really, I am staggered." The Committee struck out the clause.

It may be asked whether the Chairman of the Local Legislation Committee would have been less staggered by so harmless a proposal, and more sympathetic to a movement in the direction of improving the amenities of a provincial town not renowned for its beauty, if it had been his fate to live in such a city. If he had been a citizen of Sheffield it is possible that he might even have welcomed a clause enabling the city council to control "out of existence" the more hideous of the sky signs which at present disfigure the streets. There is a world of difference between safeguarding from Westminster the liberties of others in a remote town, and being prepared oneself to live under the unpleasant conditions produced by the anti-social exercise of such liberties.



The state of tutelage described above is, it may be suggested, no longer suited to present-day requirements or the realities of modern local government. Some of our great cities and counties are larger in population and richer in assessable value than whole European States. Their yearly expenditure exceeds the entire annual budget (excluding armaments) of perhaps half a dozen separate nations. They possess a highly trained staff of professional administrators. During the past half-century their responsibilities have been steadily increasing, and from the point of view of experience, of integrity, of efficiency, of financial stability, their past achievements and present position justify a largely increased measure of independence being accorded to them. It is anomalous and anachronistic that a great city like Birmingham cannot carry on a milk-distributing business; that if Manchester wishes to undertake some trifling new activity it is compelled to go to Parliament, cap in hand, at great expense and with a good chance of being refused without reason assigned.

#### FREEDOM AND RESPONSIBILITY

The time has come, I venture to suggest, when an increased measure of freedom and responsibility could with safety and advantage be accorded to the larger city and county authorities. The councils of the great counties and county boroughs should be encouraged to undertake any service they desire, provided it is intended to promote the good rule and government of their areas. A long list of specified services must obviously be excluded and reserved for national control and administration. The reserved services would of course include the armed forces of the Crown, foreign and Imperial affairs, the post office, the right of taxation other than by local rates, the services administered by the various government departments and independent public bodies, together with any other functions which Parliament might think fit to reserve now or at any future time.

Unless two things are realized, this proposal sounds more revolutionary than it actually is. In the first place, there is no

objection to making the list of reserved functions very long and comprehensive to commence with; and to include therein various activities (such as the control of noise) which are not at present the subject of administration by any public authority, either central or local. In the second place, the ultimate sovereignty of Parliament would not be affected in the slightest degree, because there would be nothing to prevent the whole arrangement being revoked by future legislation, nor to preclude unreserved powers being subsequently reserved, and *vice versa*. Even if the great cities were free to embark on a variety of unspecified activities, their power to do so would constitutionally be delegated to them by the King in Parliament, the source of all sovereign power.

In the next place, there is no reason why a limit should not be attached to the financial liability which local authorities should be permitted to place on the ratepayers within their area. It might possibly be desirable to refuse to allow a local council to spend more in the aggregate on unspecified services than the produce of, let us say, a rate of 2s. in the £. It would be easy enough to lay down that where the deficit, if any, on the aggregate of unspecified services required assistance from the rates in excess of some definite figure, the Minister of Housing and Local Government should have power to order the local authority to close down some or all of its unspecified services contributing to the deficit.<sup>1</sup> And when this had occurred, the local authority might be prevented from starting new activities without permission from the Minister.

A device such as this could easily be employed as a safeguard to ensure that local authorities would continue to display under the new conditions the same degree of caution and responsibility that they have shown themselves to possess in the circumstances which now exist. I believe myself that the

<sup>1</sup> A limitation of this kind is contained in the Civic Restaurants Act, 1947, which provides that every local authority exercising powers conferred by the Act shall cease to do so in the event of its civic restaurants account having shown a deficit for three consecutive financial years, unless the Minister of Food shall otherwise direct.



ballot-box and the rate-collector's demand notes provide sufficient positive checks against potential folly and extravagance on the part of local authorities. But since many people would feel reassured if a precise limit were fixed to the expenditure which a local authority might incur on unspecified services, there is no real objection to a concession of the kind suggested being made to their timidity. The really desirable object to be achieved is to obtain a margin of power for experimentation in municipal enterprise; and if we can get the bonds which now hamper and confine local authorities of all classes loosened to the extent of allowing a certain amount of free movement in every direction, there is no need to jeopardize the whole proposal by refusing to accept safeguards designed to reassure the faint-hearted. If the principle of free activity is once accorded even to a limited extent, complete liberty will follow in due course.

The Local Authorities (Enabling) Bill, introduced into the House of Commons in 1927 by members of the Labour Party, and supported by Mr. Arthur Greenwood aimed at conferring on local authorities freedom of action of the kind discussed above. The method of procedure was, however, entirely different. Clause 1 of the Bill provides that every county council, and the council of every borough and urban district with a population over 20,000, may "establish or purchase or carry on any business or undertaking within their area having for its purpose either the acquisition of gain or the promotion of commerce, art, science, recreation, charity, or any other object which might lawfully be established or carried on by a company" or incorporated association, under the Companies Acts. Local authorities under the Bill may also purchase or hold land within their areas in unlimited quantities. Other clauses provide that councils may combine for the purposes of the Bill; that they shall not sell or lease their undertakings for more than seven years without the consent of the Board of Trade; that borrowing powers shall be limited and subject to contingent control by the Board of Trade. Clause 8 lays it down that every council shall establish a special



Common Fund into which the rents of land acquired and the net profits of undertakings established under the Bill shall be paid. This Common Fund is not to be used to relieve the rates or to meet any of the liabilities of local authorities under existing legislation. It would therefore presumably either have to accumulate or be applied to the promotion of further municipal activities or the acquisition of land and property for the benefit of the public.

The general scheme of the Bill is obviously in accord with the broad conception of enhanced freedom and responsibility for local authorities which I have advocated above. The method and machinery of the measure are no doubt open to criticism from more than one aspect. For example, I do not myself think that the powers contemplated should be conferred in the first instance on small urban councils with no more than 20,000 inhabitants, but should be confined, to commence with, to county councils and towns of county borough status. In the second place, there is something objectionable in founding the emancipation of local authorities on the assimilation of their powers to those of joint-stock companies, especially when we recall that their present servitude is itself due to a false analogy having been drawn between a municipal corporation and a trading corporation. But these and other objections relate only to questions of technique, and I should myself be prepared to support, not only the Local Authorities (Enabling) Bill, but any other measure which would help to open up a larger vista of civic achievement than that which is possible under present conditions.

Unfortunately, the private members of Parliament who first promoted the Bill when in opposition became almost completely changed in their views when a turn of the political wheel brought them into power. On February 14th, 1930, the Local Authorities (Enabling) Bill was again introduced in the House of Commons by two Labour members, Mr. McShane and Dr. Salter. It received the support of Mr. E. D. Simon, (now Lord Simon of Wythenshawe) then a prominent member

of the Liberal Party, which was at least an indication that the Bill might secure sufficient backing from the Liberal ranks to secure its passage. But Mr. Greenwood, then Minister of Health, saw fit to pour cold water on the very measure which, as a private member, he had previously introduced. Thus the Bill which for many years had formed part of the stock-in-trade of the Labour programme, which had been introduced on successive occasions into the House of Commons by Labour members, and had been given a prominent place in the official party document entitled *Labour and the Nation*, perished ignominiously at the hands of its progenitors in peculiarly unworthy circumstances.

The interesting suggestion has been made that one method of extending the trading powers of municipalities without recourse to Private Bill legislation, save in exceptional cases, would be to set up a statutory board or commission empowered to grant any request by an appropriate local authority for enlarged trading powers. This body would be authorized to refuse such applications only on certain clearly defined grounds, such as the inappropriateness of the particular local authority to undertake the service on account of its limited area, the existence of a more suitable authority for the service, or the fact that the service was already being provided in the area by another local authority or by a private company having a statutory monopoly. In the last-mentioned case, the commission might have power to authorize the compulsory acquisition of the company by the local authority concerned.<sup>1</sup>

Despite the need for constructive measures of this type, it would be a mistake to believe that legislation of the kind mentioned would result in a hectic rush on the part of local authorities to avail themselves of their extended powers. Mr. G. D. H. Cole is doubtless right when he prophesies that even if wide powers were given to local authorities to acquire privately owned undertakings and to embark on new trading enterprises of their own, it is unlikely that there would be at

<sup>1</sup> G. D. H. Cole: *The Next Ten Years in British Social and Economic Policy*, p. 325.



present any great outburst of municipal trading activity.<sup>1</sup>

Special measures taken by a Labour Government might, he suggests, result in the spread of municipal banking and the development of the other services I have already mentioned. But apart from this, only a slow extension of municipal trading is probable, partly on account of the conservative disposition of the local authorities themselves, but mainly because their hands are already full with other developments. No reckless plunge of numerous local authorities into a wide variety of trading enterprises is in the least likely to occur, whatever policy future governments may adopt in enlarging their powers.<sup>2</sup>

All this refers, however, to trading enterprise on the part of local authorities. But the real case for widening the powers and extending the freedom of local councils depends on considerations of a more imaginative and far-reaching character than those which are generally embraced by municipal trading. Our concentration on municipal trading is itself both a symptom and a result of the narrow conceptions we have inherited from the Victorian era. If the reconstruction of municipal life is to mean anything fundamental it must take into account not only the collective provision of utility services and the material commodities of everyday use, but also the more spiritual elements in the public life of a community.

### CULTURAL ASPECTS OF CIVIC LIFE

The most obvious defect from which English Local Government has suffered is the almost complete neglect by the municipality of the cultural elements in social life. We have no municipal theatres, no municipal opera-houses, scarcely any municipal concerts of the first rank, and hardly a municipal picture gallery or museum worthy of a great city. The whole force of municipal enterprise has been concentrated into the utilitarian channels of public health and police, roads and housing, gas and water, while all the finer aspects of civic life have been persistently ignored. The Victorian age was notorious for its

<sup>1</sup> *Ib.*, p. 326.

<sup>2</sup> *Ib.*



ugliness; and ugliness is the dominant external characteristic of the industrial cities of modern England. Even the mere names of some kinds of local authorities are repellent to the aesthetic sense; Urban District is an example. It is difficult to conceive of the citizens having their imagination stirred at the thought of living in an "Urban District" or of desiring to make the "Urban District" more beautiful.

The results of this disastrous neglect of the cultural aspects of communal life are apparent on all sides. Huge tracts of our modern towns and outlying suburbs consist of monotonous rows of hideous dwellings and bedraggled lines of dreary shops. The industrial portions of such areas often comprise factories, warehouses and office buildings of a character which reveals not merely artistic blindness on the part of architect, builder and owner, but an undisguised contempt for aesthetic decency. The outlook of those who produced these monuments of artistic iniquity must have been totally lacking in that solicitude for other people's feelings which lies behind all public-spirited endeavour.

Even during the past few years many of the loveliest places in England have actually suffered or been threatened with various forms of desecration in a way which would be impossible in a community brought up with some regard for civic beauty. The Foundling Hospital site in Bloomsbury, Campden Hill, the Brighton Downs, the Seven Sisters cliffs on the Sussex coast, the approach to Jordans in Buckinghamshire, parts of the city of Oxford, Endsleigh Gardens in London, Chessington, the Malvern Hills—the number is legion, whether we look at town or country. Sometimes, as a result of a hectic appeal promoted at the eleventh hour by residents in the immediate neighbourhood, a few public-spirited men of wealth have come forward at the last moment and saved what ought never to have been endangered. In other cases, so-called economic man has had his way and the community has suffered for its blindness, past and present.

One of the most notable features of our splendid new system

of arterial roads is the mass of hideous bungalows and jerry-built caricatures of "period" dwellings which deface the sides of them, sometimes for miles on end. The growth of motoring as a popular pastime has led to the spread of ugliness from the towns to the country: the urban motorist carries with him the low aesthetic standards of the city wherever he goes. His blighting hand infects the country-side as with a disease. The rugged coast of Cornwall, encompassed unforgettably with emerald and cobalt, the South Downs and the North Downs, rolling splendidly from east to west, are alike disfigured by grotesque bungalows, garages, petrol pumps and other paraphernalia that is at once irrelevant and irreverent.

The municipal authorities, who by tradition and status should be guardians of the public interest in securing local amenities, are themselves too often the very instruments of destruction of that which they should be zealous to preserve. There are innumerable instances where the local council has been utterly blind to its obligations in the matter and defaced the scenery as wantonly as any speculative contractor. Professor G. M. Trevelyan tells us of a lovely road in Cornwall running between old Cornish banks of stone, covered at Easter with primroses. The local authority, in widening the road after the war, pulled down several miles of those banks and replaced them by solid grey concrete, on which nothing can ever grow, a hideous profanation for all time to come.<sup>1</sup> This is only one case among many.

It is not pleasant for those who care for local government to find a lover of natural beauty like Professor Trevelyan lumping together the local authorities with "the builders, the week-end villa dwellers, the manufacturers, the timber merchants and quarrymen" as those who "in the discharge of their duties and in the course of their legitimate trades and pleasures, will complete the destruction of old England and leave a mechanized landscape for our descendants".<sup>2</sup> But it must be

<sup>1</sup> G. M. Trevelyan: *Must England's Beauty Perish?* p. 23.

<sup>2</sup> *Ib.*, p. 17.



confessed that there is much to justify the charge. There are, of course, a number of instances where the local authority has done its duty; but on the whole municipal activity has been, not in the forefront of the battle against vandalism, but well in the rear. It is significant that in town-planning schemes all land reserved from building operations is deemed to be "property injuriously affected" for which compensation must be paid.

### AESTHETIC CONTROL OF THE ENVIRONMENT

All might be different, and better, without detriment to our economic interests. It is a mistake of the crudest kind to imagine that economic prosperity necessitates the destruction of a beautiful environment and the creation of an ugly one. Nor must the present conflict be conceived as a struggle between "good business" on the one hand and impractical sentimentalism on the other. Even from a purely financial point of view, an agreeable environment has a considerable economic value. In the United States of America, where it is not customary to subordinate business interests to aesthetic imponderabilia, we find a well-established movement to preserve natural amenities in the interests of business itself. A series of important organizations in that country are busily engaged on a vast publicity campaign designed to make citizens realize the economic value of good rural and urban amenities as a method of attracting tourists and residents. One typical leaflet issued by a Committee for Zoning the State Highways elaborates the theme of "Roadside beauty as a valuable public asset versus unregulated commercialism"; another, illustrating a clean, tidy garage devoid of enamel signs, exhorts the faithful by announcing "Interest aroused by artistic Ohio station stimulates sales".<sup>1</sup> The comic crudeness of the wording need not conceal the truth of the moral sought to be conveyed.

It is another fallacy to imagine that the ugly thing is invari-

<sup>1</sup> Cf. Letter from Mr. Arthur Hazlerigg, President of the Country-side and Footpaths Preservation Conference held at Leicester, in *The Times*, February 23rd, 1929.



ably cheap, even in terms of money. A beautiful environment is not necessarily more costly than a repulsive one. It is more a question of taste, of education, of collective control, of mere choice, than of expense. Local authorities, since they spend public money, are naturally subject to public opinion. If they think that an important section of the public does not like to have its money used in the wholesale destruction of beauty, or the erection of aesthetic monstrosities, then, in making their plans, they will give a place not only to utilitarian but to artistic considerations.<sup>1</sup> It is generally agreed that the rebuilt Regent Street in the London of our own generation is incomparably inferior in artistic merit to the lovely unity which Nash created. But it has cost far more money. A work equal in quality to that of Nash would have required for its accomplishment, not only an architect of exceptional genius, but also an appreciation on the part of Londoners of that particular portion of their heritage, a desire to preserve its beauty in a new guise, and effective power to control the aesthetic environment of which it is a part.

It is impossible to accept the present state of affairs in England as though it were the ordained order of providence. The collective control of the aesthetic environment is as feasible as the collective control of the sanitary environment, which we now take for granted.<sup>2</sup> When we contemplate what has been done on the Continent in this respect, the shortcomings of English municipal life become apparent.

In Germany, for example, the cities are usually well planned and elegantly laid out, the streets spacious and the buildings attractive to the eye. Nowhere is the ruthless hand of the smoke nuisance permitted to cast a blight over the whole community and besmirch the entire mass of edifices. Mr. Guy

<sup>1</sup> G. M. Trevelyan: *op. cit.*, p. 22.

<sup>2</sup> A commendable step in the right direction was the decision made by the Minister of Transport in 1925, as a matter of policy, that in future architectural excellence and beauty of design are to be essential requisites, no less than strength and durability, in the construction of all road bridges for which assistance is required from the Road Fund. This decision was communicated in writing to local highway authorities by the Minister.

Dauber, late President of the Royal Society of British Architects, remarked after a visit to Germany in 1929 that the thing which struck him above all else was the almost entire absence of advertisements, both in towns and villages. "The approach to a village is a real delight," he writes, "for you enter directly from the open country without being offended by vulgar hoardings and petrol advertisements placed along the roadside." In the country around Heidelberg, Mainz, Frankfort and Coblenz, where he visited, none may be put up, except in a most inoffensive way, and "as you travel by road or rail no disfiguring advertisements of any sort mar the beauty of the countryside".<sup>1</sup> The absence of unsightly petrol stations and motor garages was even more noticeable, although, apparently, there were relatively as many available for use as in England. It seems to be an agreed principle, Mr. Dauber writes, that all the unsightly work connected with motor-cars should be kept out of the public view. As an example of what could be done to provide necessary service facilities without injury to local amenities, he cites the petrol station and garage at the entrance to Bad Ems, near Coblenz. There, at the junction of two roads, is "a quiet, dignified building which serves its purpose in every way and is an ornament to the town. It is built of concrete, in cream colour, with a deep-blue frieze and gold letters and stars. The garages are behind, and there are no sheds or advertisements of any kind."<sup>2</sup>

The villages in Germany, to mention another aspect, have in most cases the fields close up around them, and there are no straggling or isolated buildings to produce the ragged effect on the landscape which is becoming increasingly common in England. In the towns the unpleasant effect of scattered and untidy suburbs is avoided as much as possible. For some distance outside the villages the roads are usually bordered with

<sup>1</sup> Letter in *The Times*, September 10th, 1929. Much of this statement is no longer applicable to Germany to-day, owing partly to the war and partly to the vulgarities introduced during the Nazi régime; but it is of historic interest as a demonstration of what could be done by local authorities who showed a proper attitude towards these matters.

<sup>2</sup> Letter in *The Times*, September 10th, 1929.



fruit-trees. When the fruit is ripe it is sold for the benefit of the community. There are no fences, hedges or ditches by the roadside, and the trees are therefore open to everyone. But the fruit is neither stolen nor destroyed; and the presence of the trees adds immensely to the attractiveness of the highways.<sup>1</sup>

The housing in Germany is evidently extremely good from an architectural point of view. Mr. Dauber observed that the houses built by the town councils for the workers in particular gave him great satisfaction. "I never saw a bungalow or any of the ill-mannered houses so common here" he remarks. Dr. Charles Beard, the distinguished American historian, confessed that he found the new working-class houses built by the Socialist administration of Vienna "more beautiful than most of the old Habsburg piles, borrowed, copied, and ginger-breaded from half a dozen civilizations and expressing no creative sincerity at any point."<sup>2</sup>

In Switzerland, in Italy, and in Scandinavia, many of the towns possess railway stations, and other buildings of a purely utilitarian character, which are an architectural delight. New York in particular has achieved a dazzling triumph in the marvellous Grand Central and Pennsylvania terminal stations: visitors go to inspect these wonderful places in the same way as visitors to London go to inspect the Tower or Westminster Hall.

The greatest city in the New World has, indeed, much to teach us in regard to the successful control of the aesthetic environment. The Municipal Art Commission of New York has, in the past decade, exerted considerable direct power and an immense indirect influence in raising the whole standard of architecture, both in regards public and private buildings. A single man, Henry Rutgers Marshall, who acted as Secretary to the Art Commission from 1919 until his death in 1927, performed Herculean tasks in transforming the city, or vast tracts

<sup>1</sup> Ib.

<sup>2</sup> Dr. Charles Beard: *The City's Place in Civilization. Proceedings of the 17th Annual Meeting of the Governmental Research Association of America, held October 15th-17th, 1928, at Cincinnati.*



of it, from a wilderness of ugliness to an oasis of harmonious form. On the occasion of his death Mr. Oswald Garrison Villard, the fastidious editor of the *American Nation*, wrote a moving tribute to the services which Marshall, himself an architect of high standing, and a critic, lecturer and author of distinction, had rendered to the city.

“There under the tower of New York’s beautiful City Hall he sat, passing upon the plans submitted for public buildings of every type, for water-works, for bridges, for police and fire stations, for every sort of construction for which public money is expended. He it was who weeded out the good from the bad before referring matters to the Commission of which he was the executive. During these eight years, therefore, the seal of his approval was stamped upon all the construction of our greatest city. He himself largely created the standards to which municipal building is now held.”<sup>1</sup>

The services rendered to the city of New York by the Municipal Art Commission, under Marshall and other men of his type have been invaluable, Mr. Villard continues. “Its existence guarantees that not only architectural but also sculptural monstrosities will die aborning and not be permitted to disfigure streets or parks. If in the last thirty-five years New York has grown from an ugly and stereotyped city, distinguished only by Washington Square and a few other cases, into one of often extraordinary beauty, the credit is not all due to the invention of the skyscraper, or to Beaux Art teachings, or to the architects who are working out the complex problems of modern municipal life with their new materials used in huge dimensions. Some credit must be given to the standards set by the city itself and some to the new ordinances which compelled the ‘stepping-back’ of the gigantic structures and gave rise to the amazing towers which are creating in New York a majesty and a romance of building never seen before.

“Yet the cry once was that if the municipalities undertook to interfere in construction, art and architecture would be pinioned

<sup>1</sup> *Local Government News* (London), March 1928, p. 22.

and bound and be at the mercy of mere bureaucrats. They have been freed, instead, and will surely continue to be well-guided and supervised ■ long as men of the breadth of view, the tolerance, the vision, and the professional skill of a Henry Rutgers Marshall can be enlisted in the public service."

Where is our English Marshall? And where in England is the city which is endeavouring to seek him out? Or which, if he were discovered, would employ him under appropriate conditions and give him the power required for his work?

A visitor to Stockholm cannot fail to be deeply impressed by its town hall. This building, which was constructed between 1912 and 1923, is famous for its beauty. It is an authentic work of genius, transcending any other modern building of its kind. Photographs are totally inadequate to depict its qualities because they give no idea of the magnificent combination of colours afforded by the deep claret red of the bricks and the green of the copper roof, or the superb beauty of the interior courtyard with the water gleaming through the arches. London's County Hall also has a riverside site; but how dull and unimaginative is the treatment of its possibilities by comparison with the Swedish masterpiece!

The Town Hall of Stockholm, like a great medieval cathedral, embodies in brick and stone ■ spiritual ideal. The ideal is a secular one of a noble city; and this superb edifice shows the power and beauty which the civic ideal can inspire. It inspires those who behold it because its makers were themselves inspired. It was never designed for use as a mere block of offices but was conceived as the symbol of ■ city's pride.

How many cities in Britain possess a town hall of high architectural quality? Very few; and those which do are for the most part indebted to the centuries before the nineteenth. The standard of our civic buildings is undoubtedly improving but at the present rate of progress it will be a long time before they can claim to have attained a high level of achievement.

The town and country planning movement clearly shows that the nation has set its face against the attitude which per-



mitted the Victorian age, in the heyday of its prosperity, to build the hotbeds of disease and misery we call the slums; to suffocate the industrial centres with monotonous rows of hideous and insanitary dwellings; to tolerate the growth of cities devoid of grace or delight or convenience. We have ourselves in the quite recent past been even more destructive of the things we value than our forebears; for the Victorians despoiled only the towns, while we have desecrated the countryside in addition to inflicting considerable damage on the cities. Now at last we have come to our senses. Our intentions are good and our sensibilities more acute.

Town and country planning offers immense possibilities for improving the economic and social welfare of the people. After much thought and discussion we are gradually beginning to understand the pattern of the environment which we desire. It contains many elements: new towns of the garden city type; a clear distinction between town and country; decentralisation of industry and population from the congested cores of the great cities; coastal reservation; national parks; control over the location of industry; neighbourhood and community units; the regulation of densities; diversification of industry; the prevention of ribbon development and sporadic growth; the avoidance of dormitory towns; the rehabilitation of rural life—these and many other component factors can be discerned in the emerging pattern. But everything will ultimately depend on how these general ideas are translated into practice.

Local authorities have a vital part to play in this great movement.<sup>1</sup> On the extent to which they can evoke creative impulses in their own deliberations and in the work of their officers; on the degree to which they can arouse enthusiasm among the citizens; on their ability to provide great opportunities for professional planners, artists, architects, engineers and social

<sup>1</sup> For a discussion of the role of local authorities in planning see my chapter on *Planning Administration and Planners* in "Homes, Towns and Countryside," edited by Gilbert and Elizabeth McAllister; my Chapter on Government in "Physical Planning," edited by Ian R. M. McCallum; and a pamphlet entitled *Planning and Performance*, by W. A. Robson in the Design for Britain series. (Dent).



scientists; on their capacity for distinguishing between work of exceptional merit and the mediocre run of the mill: on these imponderable elements will depend the final outcome of the effort to remake Britain in a new and better way.

### MUNICIPAL ENTERPRISE IN THE ARTS

But it is not only in regard to the architectural aspect of the aesthetic environment that our civic life lags behind that of several other countries. One of the most noticeable lacunæ is the complete absence of a municipal theatre or opera-house.

The question of establishing a municipal theatre in the metropolis was discussed in 1928 by the London County Council on ■ Report by the General Purposes Committee. That Committee had before them ■ Report on the practice of foreign municipalities in regard to the drama, prepared by the Clerk to the Council. This Report is a most interesting document. It reveals that "virtually every country in Europe, other than Great Britain, has ■ national theatre; that many have municipal theatres; and that in every case the stage receives in greater or less degree assistance from the national and/or local exchequers." Control is in general effected by the representation of the local authority on a committee of management, or by making the director immediately responsible to the authority.

The method of giving assistance varies widely in different countries. Sometimes, as in France, the municipality assists the local theatres by means of annual grants. Paris possesses several municipal theatres of various types, some of which are rented to private directors in whom the management is vested. The municipality exercises ultimate control by compelling the lessees to conform to conditions and regulations laid down by them. Municipal theatres run on similar lines are to be found in most of the French provincial towns, including Nice, Nantes, Rennes, Montpellier, Dijon and many others. In Germany there is a diversity of practice. The city of Berlin, for example, owns an opera-house which is managed by the Municipal Opera Company, all of whose shares are in the hands of the munici-

pality. The city also has a theatre, which has been leased to a private company. In Cologne there is a municipal opera-house and a theatre, both administered directly by the local authority. Dresden has two municipal theatres, one for opera and the other for drama. The city bears 35 per cent. of the expenditure. In Hamburg, the Opera House is worked by a joint-stock company, of whose share capital the city owns more than half. Representatives of the town sit on the supervising committee. In Munich there are three State theatres, and the city bears one-third of the annual deficit on these. In Brussels an annual grant is made to the Theatre Royal de la Monnaie, where opera is performed, and a smaller grant to two other theatres. Some form of subsidy, direct or indirect, is also made to local theatres by the municipalities of Antwerp, Ghent, Liège, Mons, Namur and Verviers. In Holland, most of the larger towns possess a municipal theatre and pay subventions to theatrical companies to enable them to give cheap operatic performances. In some cases, the subsidies are paid only in the event of a loss being shown. In Scandinavia, the drama is assisted largely by the State, and the local authorities do not intervene; but in Finland we find the municipality taking an active part in promoting the higher interests of the drama.

Almost everywhere, indeed, we find (as the General Purposes Committee informed the London County Council) that "the Continental conception of local government—following the example of ancient Greece in its State support of the drama—leads public authorities to foster in the people a taste for drama as an element of general culture and a social force".<sup>1</sup>

The arguments in favour of a municipal theatre are overwhelming. When theatrical enterprise is organized on an exclusively commercial basis, profit-making comes first and artistic considerations second or third or nowhere at all. A municipal theatre can give proper attention to the artistic and educational merits of a play, without regard to the immediate balance sheet. It can afford to take a long view of the situation;

<sup>1</sup> Cf. *Minutes of Proceedings of the L.C.C.*, June 19th, 1928, pp. 865-7.



it can educate an audience up to higher standards instead of merely responding to the existing level of taste. The commercial theatre does not, except in the rarest cases, aim at educating public taste. For the most part it seeks merely to make a profit from the presentation of plays likely to appeal to the greatest number, regardless of their social or cultural value. Moreover, a municipal theatre is peculiarly well fitted to serve as a training-ground for young actors, and to make possible the establishment of repertory companies, which are everywhere acknowledged to possess special advantages over the "long-run" system which now prevails in England.

Even so severe a critic of political institutions as Mr. Bernard Shaw remarked that he had great faith in local government, and very little in central government, when it came to matters of art. The future of the theatre, declared Mr. Shaw, lies very largely with our municipalities.<sup>1</sup>

The educational value of the drama for persons of all ages is becoming recognized to an increasing extent. The Adult Education Committee of the Board of Education, in their *Report on the Drama in Adult Education*, pointed out the obvious truism that the drama is at once a most vivid and subtle artistic medium, and therefore a powerful instrument for the conveyance of ideas; that, in consequence, theatrical presentation under right conditions can be a most potent instrument of moral, artistic and intellectual progress, and conversely, an equally potent instrument of moral, artistic and intellectual degradation.

With these and many other considerations brought clearly to their notice, what action did the General Purposes Committee of the London County Council advise should be taken? After pointing out with ill-founded complacency that the Council "has already shown its sympathy with, and appreciation of, dramatic art in a practical manner", it describes the assistance rendered by the Council to theatrical effort in the past. This

<sup>1</sup> Speech at Malvern at a dinner given by the Urban District Council after the Malvern Festival, *The Times*, August 31st, 1929.



turned out to consist of the purchase of tickets for children for Shakespeare performances, the establishment of two scholarships at the Royal Academy of Dramatic Art, and the provision of courses of lectures at evening institutes. With this dazzling record before their eyes, the Committee advised that no action be taken by the Council to provide or maintain a theatre for the presentation of Shakespeare's plays and the higher drama, but that legislation be promoted to enable the paltry sum of £500 (later increased to £1,000) to be contributed towards the cost of rebuilding Sadler's Wells theatre.

In the course of a debate in the Council to refer back this recommendation of the General Purposes Committee, the late Sir John Gatti, a member and chairman of the Council with long experience as ■ lessee of private theatres, spoke strongly against the Council taking any serious action in the matter. His point of view was in many ways typical of that held by those who oppose municipal enterprise in the realm of culture. He commenced by saying he "would like to know what the supporters of the movement claimed that ■ municipal theatre would do which was not already being done. The moment an official standard of art was set up, art became sterilized and bad. All progress in art had been made by the rebels and not by the officials. . . . No municipal theatre in any part of the world had been a stimulus to the drama or to the art of acting." Before embarking on a municipal theatre "they should be satisfied that they were likely to produce something which, but for them, would not have been produced. He ventured to say . . . that no good play written in England to-day would fail to find a manager to produce it sooner or later." And so on in similar vein.<sup>1</sup>

These negative arguments seem at once old-fashioned and ill-informed. If anyone really wishes to know what the supporters of "the movement" would hope to see accomplished in this country he might begin by taking up a list of current entertainments running during an average week in the commercial theatres of London and compare it, not only with a corres-

<sup>1</sup> *The Times*, June 20th, 1928.

ponding list of what is available in such a city as Moscow, for example, but also with the productions offered by the private dramatic societies on Sunday evenings in London and the achievements of little semi-amateur groups like the People's Theatre in Newcastle. If he believes that the public encouragement of art leads inevitably and automatically to its sterilization and decay, he should ask himself whether the art of painting has been improved or deteriorated by the establishment of an "official standard" in the national collections at home and the municipal galleries abroad. If he labours under the delusion that no civic theatre has been or can be ■ stimulus to the drama or to acting, he would be well advised to pay a visit to the Hofoper or the Burg Theater in Vienna, or to the Prinz Regenten Theater in Munich, or to some of the municipal opera-houses and theatres and arenas in Italy.

The statement made by Sir John Gatti that progress in art is due to "the rebels" as distinguished from "the officials" is quite unassailable. But does any sane person understand civic support for the drama to mean that the town clerk is expected to write plays in his spare time, the borough surveyor to orchestrate the operas, the mayor and aldermen to play the leading parts, and the Watch Committee to provide an audience? Does anyone even believe that ■ municipal theatre would be or should be managed directly by a committee of the council? Lastly, how can unwilling minds already well pleased with the existing state of affairs, and convinced that all the best available plays get produced in the best possible manner with the best possible actors, ever be "satisfied" that an improvement over the present idyllic condition is likely to be effected by municipal enterprise?

The fact remains, nevertheless, that very often in the Continental towns, especially in Germany, the best theatre is the municipal theatre; the best concerts those organized by the city; the best operatic performances those promoted or encouraged by the civic authorities. Another fact which also remains sticking in the mind is that when the Public Health Act of 1925 was making its way through Parliament, fierce opposition



was manifested by the commercial entertainment interests to a minor clause enabling local authorities to carry on any form of entertainment, provided the cost does not exceed the produce of a paltry penny rate. Mr. Payne, the President of the West End Theatre Managers and Chairman of the Entertainments Protection Association, wrote a letter to *The Times* fulminating against "the most dangerous principle" involved in permitting the citizens to provide themselves at their own expense with a pennyworth of recreation. This principle, he declared, "may well be disastrous" to the interests which he represents.

Opposition of this type resulted in the section of the Public Health Act referred to above being amended so as to preclude local authorities from arranging for the performance of stage plays, variety shows, or even films other than those dealing with health questions. Fortunately, the matter was by no means dead. This was shown by a debate in the House of Commons on November 26th, 1929. A Labour member moved "That leave be given to bring in a Bill to enable local authorities to spend an amount up to a penny rate annually on the establishment of municipal theatres, etc." The resolution was passed by a majority of 110. The Municipal Repertory Theatres Bill was thereupon brought in and read a first time. It was introduced as a non-party measure, and was supported by men of all parties. Facilities were not available for the further progress of the Bill in view of the congested Parliamentary programme. But the success which attended its first reading was a significant straw in the wind.

Subsequently the Association of Municipal Corporations urged the Minister of Health to introduce legislation to enable local authorities to provide and manage municipal theatres; to contribute to or subsidise theatrical and musical enterprises; and to enable local authorities to provide public halls for concerts, plays and other entertainments. It is at least an encouraging sign that the desire to run municipal theatres and concerts has penetrated the Association of Municipal Corporations. It should perhaps be added that the admirable work done by the Arts Council in giving financial aid to theatrical and musical presentations of



high artistic value has in no way diminished, but rather strengthened, the case for municipal theatres.

An important liberalization of the legal position was effected by the Local Government Act, 1948. This provides<sup>1</sup> that a local authority may, either directly or indirectly (through the contribution of money or otherwise) do whatever is necessary or expedient to provide a theatre, concert hall, dance hall or other premises suitable for giving entertainment. It may also provide or arrange for the provision of entertainments of whatever kind; and it may maintain a band or orchestra. The local authorities concerned are the councils of county boroughs, metropolitan boroughs, the City of London, and county districts. Their expenditure is to be limited in any year to the product of a sixpenny rate, plus receipts from any charges for admission, sale of refreshments and so forth. (This does not include capital expenditure, though it does include loan charges.)

The position is, therefore, that any local authority other than a county council or a parish council can run a municipal theatre or opera house; it can provide concerts and support an orchestra; can offer film shows of high quality; it can do almost anything in the sphere of public entertainment provided the public support is sufficient to keep the annual deficit below the statutory maximum.

Another strand in the thread of civic culture is the provision of museums. The value of the museum as an adjunct to education, a stimulus to curiosity and an aid to research, is only beginning to be appreciated at its true worth. A most interesting survey was undertaken for the Carnegie Trustees by the late Sir Henry Miers, F.R.S., the former Vice-Chancellor of Manchester University. His report revealed for the first time a vast mass of significant information relating to the public museums of the British Isles.

In England alone he found nearly a hundred towns with populations exceeding 20,000 souls which are entirely devoid of anything in the nature of a public museum; and nine other towns in Wales and five in Scotland in similar plight. A great

<sup>1</sup> Section 132.

shipbuilding centre like Barrow-in-Furness has nothing to show to its seventy-five thousand inhabitants in the way of objects of artistic, historical or scientific interest. Margate, reeking with feeble sideshows, piers, negro minstrels, coconut-shies and lucky dips, does not see fit to provide its 46,475 denizens, or the vast mass of holiday visitors who flock annually to its shores, with a collection of significant objects likely to break in on the fun even for a brief moment and intrude the horrid thought that the human mind has during its more serious moments achieved great triumphs of imaginative creation. Windsor, famous for its Royal castle and a school of manners, leaves its twenty thousand men, women and children, to say nothing of the schoolboys, devoid of opportunity for visualizing selected groups of the objects on which so much of our mental heritage is based. Wallasey in Cheshire, with a population of 89,600, Wigan (89,421), Newcastle-under-Lyme (20,418), Gosport (33,580), Rhondda (162,717), and many other towns included in a list long in length and dismal in its implications, in like manner neglect their duties and deprive their inhabitants of valuable intellectual opportunities.

Even the local museums which do exist, 530 in number, are distributed without reference to population or geographical position. There is a great concentration in London and the industrial areas of Warwickshire, Lancashire and Yorkshire. But other large territories have no museum at all. In Western Scotland, for example, there is none within fifty miles of Fort William. The Grimsby area, containing a population of 120,000 or more, has only one very poor museum which is almost unknown to the public. Derbyshire, with a population of not less than three-quarters of a million, has only two.<sup>1</sup>

The mere presence or absence of a museum is, however, by no means the only criterion of the service provided for the public in this field. In most cases the public museum is administered by a special sub-committee of the local authority,

<sup>1</sup> *Report on the Public Museums of the British Isles* by Sir Henry Miers to the Carnegie United Kingdom Trustees 1928, p. 15.



but quite frequently the administering body is a "library and museum" committee, or "library, museum and art gallery" committee. This merging of distinct institutions produces bad results which causes the museums in particular to suffer. But the most degraded administration of a cultural service occurs in those cases where the museum is administered by such bodies as the parks, market, or even the cemetery committee.<sup>1</sup>

Serious defects were also disclosed in regard to the appointment of qualified curators and the terms of their employment.

In a great number of museums, Sir Henry Miers informed us, curators are appointed in middle age, without any special training or experience. This applies to nearly all those cases where librarians have undertaken the duties of curator. There are about fifty museums which do not possess a curator having *any* of the requisite qualifications. Furthermore, the service is miserably and disgracefully underpaid. In some cases the curator is paid less than the caretaker under him. Thus, to the first conclusion that museums are distributed about the country in a most haphazard and disadvantageous manner, Sir Henry Miers added the second conclusion that in only a dozen or so was there a full-time competent curator with an adequate staff.<sup>2</sup>

One of the root causes of the evil is the misguided parsimony of local authorities in regard to the cultural services. In no case did a municipal museum receive from the local council more than the produce of a  $\frac{3}{4}$ d. rate for its total upkeep, as compared with a maximum library grant in excess of 4d. Even where there is a fairly good museum it generally received less than the produce of a  $\frac{1}{2}$ d. rate.<sup>3</sup> The sums devoted to museums are no doubt a good deal larger today, but they are seldom adequate.

Poor accommodation and equipment is the inevitable accompaniment of financial stinginess of this kind. It is scarcely surprising to learn that only 10 per cent. of the museums in the

<sup>1</sup> *Ib.*, p. 17.

<sup>2</sup> *Report on the Public Museums of the British Isles by Sir Henry Miers to the Carnegie United Kingdom Trustees 1928*, pp. 20-2.

<sup>3</sup> *Ib.*, pp. 17, 33, 47.



country are housed in separate buildings designed for the purpose, and that 20 per cent. are in residential houses which have been more or less adapted for the purpose. Nearly half of the municipal museums are contained in ■ room or rooms in the public library, or associated therewith.<sup>1</sup>

The county borough councils, in their capacity as education authorities, are with a few exceptions scarcely more enlightened in their attitude towards museums than the county councils, nor more willing to make proper grants in support or recognition of the important assistance rendered under special arrangements by the museum to the schools in practically every one of the large towns.<sup>2</sup> In view of the small amount of interest evinced by county and county borough councils in the educational work of museums, it is not surprising to find that the smaller boroughs and towns show an equal or even greater amount of indifference.

The chief functions of the museum suggested by the distinguished author of this Report is by means of exhibited objects to instruct, and to inspire with ■ desire for knowledge, children and adults alike; to stimulate not only a keener appreciation of past history and present activities, but also a clearer vision of the potentialities of the future. Museums should stir the interest and excite the imagination of the ordinary visitor, and offer to the specialist and the student a fruitful field for research. When Sir Henry Miers asks if the public museums in the United Kingdom fulfil these functions, he is reluctantly compelled to declare, after surveying all the facts and exploring all the available channels of information, that "the stronger one's belief in the great work they might do, the stronger is the conviction that at present, in spite of certain noteworthy exceptions, they fail—and fail lamentably. There is no doubt that the country is not getting what it should from the public museums, and that most of them are not going the right way to supply what is wanted."<sup>3</sup>

<sup>1</sup> *Ib.*, p. 25.

<sup>2</sup> *Report on the Public Museums of the British Isles* 1928, p. 33.

<sup>3</sup> *Ib.*, p. 38.

A further enquiry into museums and art galleries was undertaken by Mr. S. F. Markham, M.A., M.P., for the Carnegie Trust in 1938. In his report,<sup>1</sup> Mr. Markham again emphasized many of the shortcomings in municipal museums to which Sir Henry Miers had drawn attention 10 years earlier. He stressed the inadequate finances, the lack of modern buildings, the ill-paid and untrained curators, the small interest shown by many members of committees controlling municipal museums, the lack of drive and energy in the museum movement as a whole. There had been actual deterioration in the smaller museums since the Miers report, although many of the medium size institutions had made progress. New museums are continually springing up all over the country without possessing adequate financial support, an expert staff, or proper equipment.

Despite these stringent criticisms Mr. Markham was able to point to considerable improvements in the leading and medium municipal museums. He found they were in a better financial condition, were served by more competent curators, and had evoked a greater public interest in their work. Many of the weakest museums had closed their doors, which he considered was the best thing they could do. The Markham report, though not of so pioneering a character as its predecessor, was nevertheless a useful contribution to the work of local authorities in an important cultural sphere.

Since the passing of the Public Libraries Act of 1919, both urban and rural authorities have been free, not merely to establish museums, but to spend whatever they please on their upkeep. It is, therefore, not possible to ascribe the defective position at present existing to any lack of statutory power on the part of the local councils.

It is, nevertheless, largely owing to the traditional legal inability of municipal bodies to foster the cultural services in the past century, and to the absence of encouragement in this connection from the central government, that they have con-

<sup>1</sup> *The Museums & Art Galleries of the British Isles*, published by Carnegie United Kingdom Trust, Dunfermline (1938).



tinued to neglect these services even when, as in the case of museums and art galleries, their legal incapacity has been subsequently removed by legislative enactment. The damping effects of seventy years' repression ~~are~~ not always to be remedied by three decades of liberty. Continuous lack of freedom may destroy both the desire for liberty and the capacity to make use of it.

### SIGNS OF RECENT PROGRESS

A complete survey of the uses which local authorities are making of their new opportunities is not yet available. There can, however, be little doubt that a change of outlook is beginning to spread through the country. Borough or county borough councils often give financial support to the repertory theatre companies which have sprung up in about 80 towns in recent years. A notable example is the material aid and encouragement accorded by the Bristol Corporation to the Bristol Old Vic enterprise. In the 1930's the only major repertory theatres were those in Liverpool and Birmingham. There are now two more of equal importance in Bristol and Glasgow; and others of high value in Chesterfield, Guildford, Nottingham, Ipswich, Dundee, and Preston. The companies in Northampton, Ipswich, and Windsor are considered to have a standard of performance so high that "the national theatre of any country would be proud to use them as a reserve team."<sup>1</sup>

The rôle of the local authority in this movement varies from place to place. Sometimes the council will provide premises which can be used as a theatre, or make a grant towards the cost of building, reconstructing, or maintaining premises for that purpose. In West Hartlepool, for example, the council spent £1,000 in adapting the stage of the town hall. In Leeds the council has provided and equipped a small theatre for hire by local societies. In Nottingham, the theatre was opened at the end of 1948 with financial help from the local education authorities. In Manchester, the council has granted money to enable performances to

<sup>1</sup> See the article in *The Times* newspaper May 20th, 1952, p. 2. The quotation is from an article by Charles Landstone in *The Adephi*.



take place in the Library Theatre. In Buxton, the borough council actually owns two theatres, one of which is let as a cinema. Sometimes the council contributes money towards the cost of performances, where these are not covered by receipts. In Manchester and Liverpool, the town council finances theatrical performances in the parks; in Carlisle, the council guaranteed a historical pageant to the extent of £2,000. In Coventry, the Playhouse was destroyed by bombing in the second world war. It has been replaced by a touring company which serves the region, and to which the Coventry Corporation gave £2,000 in 1952-3. One can find many much smaller examples of civic enterprise. In Worksop, for instance, the Compass Players received a £20 guarantee for each performance of two plays; while the Lilliput Marionettes were commissioned to give five school performances of *Hansel and Gretel*.

It is the picture as a whole which is impressive rather than the individual manifestations of local interest in the drama. It is no longer possible for me to repeat the statement I made in earlier editions of this book that "there is nowhere to be found, from one end of England to the other, ■ local authority with either the power, or apparently the desire, to encourage in any effective manner the cultural forces represented by the acted drama in its higher ranges".<sup>1</sup> There are, indeed, signs of ■ renaissance in the British theatre; and some part of this is due to the municipalities. About 25 out of the 80 repertory companies are run on non-profit making lines, and many of them receive substantial aid from the Arts Council. Mr. W. E. Williams, the secretary-general of the Arts Council, has publicly stated that the Arts Council attach great importance to the repertory theatre movement and regard it as ■ vital and integral part of the British theatre. He declared that for the health of the movement "it is very necessary that it should receive as much support as possible by local authorities."<sup>2</sup> We are in entire agreement with this view.

It is a pity that in London, with its vast opportunities and great

<sup>1</sup> See Revised and enlarged second edition (1948) p. 269.

<sup>2</sup> *The Times* newspaper, Oct. 2nd, 1952.

wealth, municipal enterprise should have failed to give a lead in this beneficent movement. The metropolis has the glories, past and present, of the Old Vic and Sadler's Wells; it is also to have ■ national theatre for which the London County Council has provided ■ site on the South Bank of the Thames. The capital for this bold and imaginative project will be provided out of the national exchequer up to £1 million. But it does not reflect great credit on the London County Council that they should rely on the initiative of the central government to provide London with a theatre worthy of the capital. New York has a municipal theatre. Why cannot London do as much?

In the sphere of music the London County Council can take credit for providing the Royal Festival Hall, a magnificent auditorium which has transferred much of London's musical life to the South bank of the Thames. This fine hall was designed and built by the Council, and is owned and administered by them.

In the musical field we find much activity by local authorities in the exercise of the powers conferred by the Local Government Act, 1948, or earlier private Acts. We may take the following examples for the year 1951-2. The Corporation of Liverpool provided the Liverpool Philharmonic Orchestra with ■ loan of £10,000 free of interest, a grant of £6,500, an annuity of £4,000, and the use of its hall without charge. Oldham provided a guarantee of £500 for the Hallé Concerts Society to cover ■ specified number of performances. Blackpool voted £150 for a music festival. Stoke-on-Trent paid £1,000 for the Hallé Orchestra, and gave a guarantee of £300 for the local choral society. Huddersfield promoted 12 concerts by the Yorkshire Symphony Orchestra, a series of municipal Saturday evening concerts, and also some lunch-time concerts. It supported an amateur operatic society and the Huddersfield Choral Society concerts. Sheffield provided ■ £6,000 guarantee for 30 concerts organized by the Sheffield Philharmonic Society. These examples are taken from among the big towns. At the other end of the scale we find Shardlow Rural District Council granting 20 guineas to a local parish so that it can present a "celebrity concert"; and the



small and charming urban district of Haslemere contributing £50 to the performance of Purcell's *Fairy Queen* by the local musical society and the Haslemere Players. Local authorities have been, on the whole, more willing to spend money on music than on the drama; and their combined efforts in this direction provide substantial encouragement and support for concerts of all kinds, ranging from the finest orchestral performances to amateur choral societies or madrigal singers.

Pictorial art has also benefited from the more civilized attitude of local authorities in recent years, though to a lesser extent than either music or drama. Local authorities today not infrequently organize exhibitions of painting, sculpture, or wood carving by local residents, both professional and amateur. Worcester, for example, in 1951-2 granted £350 to the Stuart Art Exhibition, and £182 to the Arts and Crafts Exhibition. The larger towns often have a municipal art gallery of their own; but the collection of masterpieces is far beyond the reach of all but the wealthiest corporations.

The present range of cultural activities supported by local authorities represents a distinct advance on the apathy and indifference of the past. But judged by the deep-seated needs of provincial towns, it represents a mere drop in the ocean. It would be unreasonable to expect the evil results of our civic neglect of civilized values extending over nearly two centuries to be abolished in less than a decade.

### THE POVERTY OF PROVINCIAL LIFE

We must not therefore be too ready to blame local authorities for not immediately seizing each opportunity to undertake a new enterprise in an untrodden field the moment it is doled out to them by a gracious legislature. We must recollect that for generations the doctrine of *ultra vires*, and the strict limitation of powers it involves, have hung round their necks like a millstone. In order to realize the possibilities of even such relatively meagre opportunities as are now open to them they require stimulus, advice, moral encouragement and financial assistance from the central government. Above all, they need



to be made to *feel free*, and not subject to the cramping restrictions of a legal principle quite unsuited to the requirements of modern local government looming in the background like a giant shadow. This principle of *ultra vires* often exerts a depressing influence over even those activities for which express permission has now been granted.

The cultural quality of life in the English provincial cities is from most points of view still deplorably low. It is scarcely too much to say that, apart from the universities, three-quarters of the cultural life of the whole country is centred in London. This concentration of the intellectual, artistic, musical, scientific and literary forces of the community at a single focal point may be flattering to the metropolis, but it is not good for the national welfare looked at from the broadest point of view. Everyone cannot live in London, which is already surfeited with theatres, concerts, libraries, museums, picture galleries, lectures, scientific conferences, historical anniversaries, literary groups, commemoration gatherings, political meetings and all the other manifestations of a full and quickened mental life. Nor can all the talent in the cultural fields manage even by hook or by crook to get to London. Yet unless it does get there it stands a good chance of being nipped in the bud, of dying for want of stimulus and encouragement and appreciation.

It is not desirable that life in the provinces should be as thin and aesthetically starved as it is in most places, including even the largest towns. Human needs do not vary to any marked extent as between London and Newcastle, Bristol or Sheffield. But the opportunities for satisfying those of them which relate to the higher realms of culture vary enormously. London, on the one hand, is overstocked, weighed down with an *embarras de richesse*. There are too many concerts, too many theatres, too many lectures, too many picture galleries, too many museums, in the capital city. The provincial cities, on the contrary, are for the most part seriously under-nourished with cultural amenities.

It is a clear case of "congestion at the centre, anaemia at the extremities". A better balance of life is indubitably needed.

A visitor to England comes inevitably to London, just as a visitor to France goes inevitably to Paris. There is no other city in either country (leaving aside special cases like Oxford or historical accidents such as Stratford-on-Avon) with anything to offer of serious contemporary cultural interest apart from the universities. But a visitor to Germany or the United States does not necessarily go to Berlin or to Washington or even New York; or at any rate he does not go to those cities exclusively. He may gravitate to Frankfort or Munich, Dresden or Leipsic, Hamburg or Heidelberg, Boston or Philadelphia or Chicago. All these have much to offer which compares favourably with the capital.

Edinburgh has recently shown what can be done by means of its remarkable summer festivals to make a city both culturally significant and attractive to tourists from all over the world. Edinburgh has within a few years become of national and international interest as a cultural centre. One hopes that other cities will follow her lead.

The cultural superiority of London is largely due, not to superior municipal institutions—far from it!—but to the fact that great national art galleries and museums, libraries and semi-official associations like the Royal Society or the Royal Academy, have been founded in the metropolis under the auspices of the Crown or the central government. These act naturally as centres of attraction. The barrenness of the provincial cities, on the other hand, is, in my opinion, to a considerable extent due to the restrictions which were for so long placed on the free development and spontaneous activities of the municipal authorities. This contention derives support from the more distinguished results in this respect achieved by certain Continental towns under conditions of greater constitutional and legal freedom.

My own conviction is that the shortcomings in this connection of the English towns are to a large extent due to the limitation of powers which the doctrine of *ultra vires* imposes upon all local authorities except municipal corporations, which were held to be immune from it only in 1943. To restrict a local authority to the narrow letter of a statutory enactment is not the



best way to evoke the maximum amount of initiative and spontaneous enterprise of a high order, particularly in those fields of social endeavour where the organs of civic government ought to join hands with the creative ability of the individual artist. When we look at the finest achievements of past ages in this direction, whether we turn to the magnificent Hôtel de Ville in Brussels, or to the Pont du Gard which carried the aqueduct to Nîmes, or to the arenas and theatres built by the ancient Romans in Provence, or to some of the magnificent public buildings of Tudor England, or of the Netherlands of the sixteenth century, it seems suddenly to become clear beyond all argument that these great monuments of civic glory were not and could not have been erected by public authorities whose every act was liable to be declared invalid if it exceeded the letter of some closely construed legal instrument, and who were compelled to delay all their activities until a Private Bill Committee or similar body in a distant capital had been convinced by a cumbersome and expensive procedure that the proposed enterprise was absolutely essential.

I conclude, therefore, by suggesting that if we desire to broaden the basis of our local government system, and to enlarge and enrich municipal life so as to bring it more into accord with modern aspirations and developing social needs, one of the most vital steps in that process will consist not only of abrogating the nineteenth-century rule of *ultra vires* in the case of those local authorities to which it now applies, but even more important, of freeing ourselves from the inhibitions which its baleful influence has engendered.

### THE CIVIC SPIRIT

It is not only a mere decentralization of culture which is needed at the present time. What we have also to seek is something in the nature of a new impetus in the direction of cultural activities on the part of municipal authorities.

There is a significant difference, write Mr. and Mrs. Sidney Webb, between the impulse to take part in local government of the Labour councillors of to-day, and that which inspired



the rulers of the medieval city, or that which created, among the wealthy citizens of the Liverpool or Birmingham of the last century, what was regarded as municipal patriotism. The Labour members, they continue in a fine passage, "do not seek election to the local council of to-day because they are proud of their city, but because they are ashamed of it. Unlike the fourteenth-century citizens of Florence or of Bruges, they are striving, not for municipal magnificence or even utilitarian efficiency, but rather for the removal of municipal degradation. So low has fallen our conception of municipal life in Britain today that what even enthusiastic reformers are concerned about is not the glory of the utmost development of communal life, the widest possible extension of the civic functions, or the outshining in municipal achievement of any other city, but merely the scavenging of the slum, the mitigation of scandalous overcrowding, the arrest of preventable sickness, and the stopping of the collective neglect that we now know to be virtually infant murder. Municipal enterprise has, in our degradation, come to mean little more than rescuing our own neighbourhood from the material and moral defilement and pollution to which capitalism has condemned it. . . . The larger aspects and purposes of local government, the limitless promotion in all directions of the activities, the faculties and desires of the citizens, by the creation of the best possible material and mental environment for them, almost escape our attention."<sup>1</sup>

Such an attitude as is here described cannot and must not be permitted to endure. Whatever the virtues of the medieval economy may have been, whatever the defects of modern capitalism, we have to recognize the fact that, unlike the urban centres of antiquity, the cities which dominate the social scene to-day are built, not on commerce and handicrafts but upon manufacturing machinery and science, with all that that implies for aesthetics and the good life. These essential conditions will persist regardless of any other changes which may be introduced in the economic system.

<sup>1</sup>Sidney and Beatrice Webb: *A Constitution for the Socialist Commonwealth of Great Britain*, pp. 206-7.

That is not a matter for simple regret. The body of scientific knowledge which led to the industrial revolution also made it possible to remedy and prevent the intolerable evils which that revolution produced. It would be easy, as Dr. Charles Beard reminds us, to draw from authentic records a far from beautiful picture of the life of the nameless masses who lived in fever-infested hovels under heaven-searching spires and glorious town halls, in the old days before the advent of the machine.<sup>1</sup> We do not know much about these nameless masses, but we know enough to warn us against any vain imaginations idealizing the handicraft city. To-day it may safely be said that sanitation has made our best cities freer from disease and suffering than most of the country-side. We no longer live in the walled and sewerless towns of medieval times. Some of the worst conditions of physical decay are now to be found in the pure air and under the open sky of the country.

Whatever the shortcomings of our age may be, we can then surely take pride and comfort in the knowledge that the vision of the new city takes in those masses which were ignored or scorned by the upper classes of antiquity and the middle ages. A return to the exclusiveness of the earlier centuries is as socially undesirable as a return to its handicraft system is economically impossible. If we are unable to reproduce the arts of the old order, we certainly are unwilling to reproduce its filth and squalor and disease.

The real lesson of the middle ages and the opening centuries of the modern world seems to be, so far as local government is concerned, that beauty is not a "ginger-bread decoration added to utility" but an expression of the aesthetic sense working through the whole community. That aesthetic sense, we may believe, is closely related to the civic spirit. Our cities are ugly and discordant because we lack the civic spirit: we do not lack the civic spirit because they are ugly.

Despite extensive changes and improvements, the grim and

<sup>1</sup> Dr. Charles A. Beard: *The City's Place in Civilization*: an address. *Proceedings of the 17th Annual Meeting of the Government Research Association*, held on October 15th-17th, 1928, Cincinnati, p. 90.



avaricious hand of the nineteenth century weighs heavily upon the local councils in many subtle and intangible ways. The greatest need in English local government to-day is a recapture of the kind of civic sense which invested some of the older cities with a special glory in the Tudor age. In those days the towns and villages were dirty, narrowly exclusive and undemocratic; and we want none of those characteristics brought back into municipal life. But there did exist, above and beyond the dirt and the exclusiveness, a civic pride and a civic sense which, to our loss, has since disappeared. Our aim should be to combine the efficiency and scope of twentieth-century municipal government, with its free universal education, increased public safety, improved health, ~~ease~~ of communication, higher standard of housing and other advantages, with the civic spirit of the fifteenth and sixteenth and seventeenth centuries, shorn of its narrow exclusiveness and undemocratic basis of representation.<sup>1</sup>

The most hopeful method of achieving that purpose would be to pay greater attention to the cultural activities that could be promoted by the local authorities. Even the ordinary utilitarian services may be regarded, not only from the point of view of the benefit they bring to the individual citizen or ratepayer, but also from the standpoint of what they yield to the local community as a whole in terms of civic self-respect. But the corporate sense is most likely to be quickened by those activities which lift the mind of the citizen above drains and trams and waterworks and, through the medium of music, the drama, painting, lectures, museum displays and the written word, bring him into contact with other minds. Where the municipality is itself the instrument through which that contact is made, the citizens who experience it may feel stirred by a sense of civic unity in a great enterprise. Thus may our public life become fuller and run in ever-deepening channels.

<sup>1</sup> C. R. Attlee and William A. Robson: *The Town Councillor*, chap. ix.



**PART III**

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## PART III

# THE LOCAL GOVERNMENT SERVICE<sup>1</sup>

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### THE IMPORTANCE OF THE LOCAL GOVERNMENT SERVICE

THE need for efficient administration in local government is so obvious that its attainment may be regarded as an end universally acknowledged to be desirable. The achievement of efficiency in administration depends upon a combination of four distinct factors: first, an enlightened electorate; second, councillors possessing wisdom, public spirit, integrity, and imagination; third, ■ scientific constitutional structure; and fourth, ■ local government service of high mental ability and good moral calibre.

There is at present a most urgent need to concentrate attention on the last of these elements, for until recent years the question of the municipal service attracted but little public attention in England: a somewhat curious fact in a country which has led the way for almost the whole civilized world in the task of creating a national civil service based on principles which are everywhere regarded with admiration. The problem of raising the standard of the local administration is now one of widespread interest and frequent discussion. This is scarcely a matter for surprise considering that we are now entrusting the

<sup>1</sup> The substance of part of this chapter was given as evidence before the Royal Commission on Local Government. See *Minutes of Evidence*, Part XIII. For the effect on the Commission, see *Final Report*, Cmd. 3436/1929 Part III, p. 117, *et seq.* Following a suggestion made to them by the late Graham Wallas and myself, who appeared as joint witnesses, the Royal Commission recommended that a Departmental Committee should be appointed to inquire into the recruitment of local government officers. This led to the setting up of the Hadow Committee on Local Government Officers in 1930. I was invited to give evidence before this body and again presented the substance of Part III of this book (as it originally appeared) ■■ my written evidence. The text has been considerably revised in order to bring it up to date.



local authorities with the expenditure of a sum of money in the neighbourhood of £750,000,000 a year. Over and above that, there is an external loan debt of local authorities standing at £2,250,000,000 while the capital value of municipal assets is probably many times larger. These figures indicate the magnitude of local administration in terms of financial expenditure. They do not reveal its vital importance in terms of the well-being of every inhabitant of the country.<sup>1</sup>

### THE REQUIREMENTS OF THE LAW

Local authorities are to a large extent free to appoint officers and workmen at their discretion, subject to a number of limitations and stipulations.

The law requires that certain offices must be filled by local authorities of particular classes, whether they desire to do so or not. Thus, for example, a county council must appoint a Clerk, a County Treasurer, a County Medical Officer, a County Surveyor, a Chief Education Officer and a Children's Officer. A borough council is compelled to appoint a Town Clerk, a Treasurer, a Surveyor, a Medical Officer of Health, and at least one Sanitary Inspector, together with such other officers as the council think necessary for the efficient discharge of their functions. An urban district council or rural district council must appoint similar officers.

There are a number of legal prohibitions regarding persons holding offices under local authorities. These often served useful purposes in days gone by in checking corruption or other undesirable practices which were prevalent; but the principles which they embody have become woven into the texture of municipal tradition, and the legal provisions are no longer of vital current interest. Among legal prohibitions of this order we may note, for example, the requirement that a member of a local authority may not be appointed by that council to any paid office, other than Chairman, Mayor or Sheriff. The same

<sup>1</sup> Cf. W. A. Robson: *The Relation of Wealth to Welfare*, for an attempted evaluation in terms of life.

person cannot hold the offices of Clerk to the county council and County Treasurer, nor can these offices be held by partners. Similar disqualifications apply to the offices of Town Clerk and Treasurer.<sup>1</sup>

Many statutes provide that local government officers shall hold their offices during the pleasure of the council. This was held to mean in *Brown v. Dagenham Urban District Council* (1929) 1 K.B. 737, that the local authority was entitled to dismiss an officer without cause or notice even though he had an agreement which provided for due notice to be given. This decision has been nullified by subsequent legislation conferring legal validity on the terms of any agreement which require that reasonable notice shall be given by either party on terminating the appointment.<sup>2</sup>

A number of local appointments are subject to approval by the central government. Despite the occasional injustice<sup>3</sup> which this partial control by a central department produces, it is impossible not to recognize that, in the case of Medical Officers and Sanitary Inspectors, overwhelming advantages have accrued from the powers which the Minister of Health exercises over certain classes of appointments.

Certain minimum requirements concerning Medical Officers are laid down by statute. Beyond these the Minister of Health is authorized to prescribe by regulations the qualifications and duties of all Medical Officers of Health employed by borough or district councils. Where the appointment of a local Medical Officer is made—as is now usually the case—with a view to repayment of half the salary by the county council, the Minister is able to enforce compliance with further regulations made by him prescribing the mode of appointment, the terms of remuneration and tenure of office; and, in addition the qualifica-

<sup>1</sup> Local Government Act, 1933, Section 98, 102-106, 122.

<sup>2</sup> Local Government Act, 1933, Sect. 121.

<sup>3</sup> The injustice referred to arises from the fact that partial control by the central department may destroy the relationship of master and servant between the local authority and its officers, and so not make the local authority liable in law for the latter's torts. See Gleeson Robinson: *Public Authorities and Legal Liability*, passim, and the cases cited therein.



tions and duties of Sanitary Inspectors. Medical Officers and senior Sanitary Inspectors subject to these regulations must be given security of tenure. They cannot be appointed for a limited period only; and they can be dismissed only with the consent of the Minister or by him. Moreover, if the Medical Officer fails to comply with the Minister's regulations, through failure to provide the necessary information or to make the reports or returns required of him, the Minister can order the county council to withhold the grant-in-aid of his salary, which is then forfeited to the Exchequer. County boroughs receive no grant for the Medical Officer's salary, but those which formerly received a grant for this purpose prior to attaining county borough status are subject to a considerable measure of Ministerial control in regard to their Medical Officers.

The Minister of Health and his predecessors have for more than half a century been waging a continuous battle against the employment of part-time Medical Officers by local authorities who were large enough or rich enough to afford a whole-time officer either alone or in combination with neighbouring authorities. In 1929, the Local Government Act (Section 58) provided that in the case of all future appointments, District Medical Officers should be prohibited by the terms of their agreements from engaging in private practice. This important change was introduced as a result of the recommendations of the Royal Commission on Local Government, which in turn were largely influenced by the evidence and views put forward by the Ministry of Health. There is no doubt that in this matter the Minister of Health has insisted upon a higher standard of qualification than would otherwise have been attained.

The appointment of certain other leading officers is subject to the sanction of a government department, in those cases where a grant is made towards the salary from national funds. Thus, the Home Office exercises a power of approval in the case of the Chief Constable, and the tenure of office of Engineers or Surveyors in charge of roads is subject to control by the



Minister of Transport in cases where grants-in-aid of their salaries are made from the Road Fund. The attitude of the Home Office in regard to the appointment of Chief Constables has not been particularly constructive or enlightened; but a discussion of the predilection of the Home Office for retired naval and military officers would take me too far afield at this juncture. Of much greater significance has been the control exercised by the Ministry of Education over the training, qualifications and terms of appointment of school teachers employed by local education authorities. But here again it is impossible to discuss the subject in detail.

Under the Education Act, 1944, the Ministry of Education is given an exceptional power in regard to the Chief Education Officer whom every local education authority must appoint. The county council or county borough council, as the case may be, may not proceed to appoint their Director or Secretary for Education without first consulting the Minister. For this purpose they must submit details of the candidates from whom they propose to select an officer. The Minister of Education can eliminate from the list anyone whom he considers to be unfit for the post.

A similar procedure has to be followed in appointing the children's officer, except that the Home Office is the central department concerned.<sup>1</sup> Under the Fire Services Act, 1947, the Home Secretary is authorized, after consulting the Central Fire Brigades Advisory Council, to make regulations governing the method of appointing chief fire officers, the other members of fire brigades, the qualifications for appointment and promotion, and the procedure to be observed in making promotions.<sup>2</sup> The Council contains representatives of fire authorities and fire brigades, together with independent persons possessing special experience likely to be of value. Regulations have been made governing the method of appointing the chief officer of a fire brigade, the qualifications for ordinary firemen, and the conditions to be

<sup>1</sup> Children Act, 1948, section 41.

<sup>2</sup> Fire Services Act, 1947, section 18.

satisfied in making promotions. The approval of the Home Secretary is required for the appointment of a chief officer.<sup>1</sup> The appointment and dismissal of public analysts have to be approved by the Minister of Food.<sup>2</sup>

A limitation of a different character regarding the municipal service concerns the remuneration which local authorities may pay to their employees. This must not be "unreasonably" high, or it will be unlawful and liable to be surcharged on members of the council by the District Auditor, where the accounts are subject to audit by that official.<sup>3</sup> The effect of the decision in the Poplar Wage Case appears to be that, so far as the standard categories of workmen are concerned, no council can lawfully pay wages in excess of the market rate, plus a small discretionary margin, which it is understood the District Auditors have fixed for the time being at 10 per cent.

There has been no direct application of the principle here involved to the clerical and administrative classes of municipal officers, yet it is probable that there are limits to the rates of remuneration which local authorities may lawfully pay almost anywhere along the line. So far, however, as efficient administration is concerned, the effect of the Poplar wage decision is not considerable, though it is objectionable on other grounds. For, in the first place, the tendency of most local authorities is to pay too little rather than too much. In the second place, since the market rate for a particular class of worker is the basis of the remuneration which may lawfully be paid to municipal employees of that class, the local authority will always be in a position to offer what is necessary from a purely economic point of view however inadequate the remuneration may be from a social standpoint.

It can be seen from these preliminary remarks that local authorities are remarkably free, so far as the law is concerned, to employ what officers they think fit for the purpose of carrying

<sup>1</sup> S.I., 1950, No. 619.

<sup>2</sup> Food & Drugs Act, 1928, section 115; Food & Drugs Act, 1938, section 66; S.I. 1948, No. 107.

<sup>3</sup> See Part IV, post.



out their statutory powers and duties. All the vital questions of qualification and training, remuneration and conditions of service, tenure and superannuation, are left to the discretion of the local authority. The limitations placed on the exercise of that discretion are, with a few exceptions,<sup>1</sup> trifling in character, and are for the most part obstructive rather than constructive. In any event the dominant fact regarding this aspect of municipal government is the freedom of local authorities, rather than the relatively slight obligations imposed upon them.

### THE PRESENT UNSATISFACTORY POSITION

What use, we may ask, have local authorities made of their freedom in this connection? The answer is that, until recently, hardly anything in the nature of a systematic effort had been made by local authorities, either singly or collectively, to secure a high general level of efficiency, administrative ability and trained mental capacity in their officers. There are, it is true, a considerable number of men of exceptional ability in the municipal service; but their presence is due to a fortunate accident rather than to any well-planned scheme of recruitment designed to attract a continuous supply of men and women fitted by nature and education to shoulder the immense responsibilities which fall to-day on the local administration. Before 1946 neither the local councillors of Great Britain, or the various associations representing particular classes of local authorities, had ever considered the problem of the local government service as a whole. No attempt had been made to correlate entry into the service with the various stages in the system of national education, or to tap the reservoir of developed mental ability which is to a large extent concentrated in the universities. We may search in vain prior to this date for any sign of a deliberate effort by the combined local councils to eradicate the widespread patronage which still prevails on a vast scale, particularly among the smaller authorities: we shall not

<sup>1</sup> The most important exception is the power possessed by the Minister of Education to require Local Education Authorities to pay teachers in accordance with the "Burnham" scales of remuneration. Education Act 1944, Section 89.



find even a challenging denunciation of this serious scandal. The responsible councils, in short, had contributed little, if anything, towards the task of assisting the municipal service to become a profession in the true sense of the word, rather than a mere occupation or employment.

The result of all this persistent apathy and indifference is that there is an immense amount of inefficiency arising from the employment of part-time officials and persons with inadequate qualifications, experience and education. The level of administration is frequently lower than it would otherwise be on account of the refusal of local authorities to pay adequate salaries or to insist upon suitable qualifications for their officers. Above all, the absence of a regular supply of men with a university education has produced a lack of imagination, a pedestrian quality, in all ranks of the service. Even when the leading officers in charge of the departments of a local authority are men of exceptional capacity, the rank and file are often definitely inferior to comparable grades in the national Civil Service. The disinclination of the local governing bodies to raise the standard of their personnel to the highest possible level of efficiency appears the more unaccountable when we remember that the example of the Civil Service is continually before their eyes. In recent years, moreover, a very large number of the great industrial concerns, including the joint-stock banks, the great insurance companies and the chartered overseas trading corporations, have taken definite steps in the direction of offering opportunities for suitable employment to promising young graduates and clever youths from the secondary and public schools, and in various ways have endeavoured to import Civil Service standards into their conditions of employment.

So far as the methods of recruitment are concerned, the Local Government Service has hitherto presented a sharp contrast to the national Civil Service. In the local administration we have had neither the impartial tribunal exemplified by the Civil Service Commission nor the minimum qualifying standard of

general education or of technical knowledge and of capacity for concentrated work, nor the element of competitive literary examination, which are leading features of recruitment in the national Civil Service. One or two of the larger county and county borough councils had, however, introduced isolated and sporadic schemes intended to secure ■ minimum level of intellectual capacity among specified groups of workers, and more than a hundred local authorities are said to have adopted some sort of qualifying test as a preliminary educational standard for junior entrants.

### THE PROFESSIONAL DIRECTING STAFF

The most important feature which characterizes the Local Government Service is a division of the personnel into a small professional directing group and ■ large clerical or administrative non-professional subordinate staff. Thus, in the Town Clerk's office the Town Clerk himself and one or two of his chief assistants will be solicitors or barristers; in the Public Health Department the directing head and one or more of his chief assistants will be members of the medical profession; in the Surveyor's Department the official in charge and his first lieutenant will be qualified engineers; while the most responsible work in the Treasurer's Department will probably be in the hands of Chartered or Incorporated Accountants. Under this small professional directing staff is the rank and file of the service. The "unprofessional" clerical, administrative or operative personnel in each department is usually in an overwhelming numerical preponderance; but hitherto it has been debarred from any prospect of rising to the chief positions on account of the virtual impossibility of acquiring the costly professional qualifications which are traditionally required for the higher appointments.<sup>1</sup>

The work falling to the lot of the higher officials in the municipal service differs to ■ marked degree from the work of

<sup>1</sup> W. A. Robson: *From Patronage to Proficiency in the Public Service* (published by the Fabian Society), p. 32 *et seq.*; L. C. Evans: *Examinations for Local Officials*, *Public Administration*, July 1928.



the ordinary private practitioner engaged in what is nominally the same profession. A Medical Officer of Health, according to professional theory, is primarily a doctor, indistinguishable from every other qualified medical man. But in reality the Medical Officer of Health of a great city has scarcely anything in common with a general practitioner in a quiet country district so far as his duties, interests, ambitions or professional outlook are concerned. The work of a whole-time Town Clerk, though professionally identified with that of other members of the legal profession, has little, if anything, in common with a solicitor or barrister in private practice. Similar contrasts exist in regard to many other fields of municipal administration. The net result is that there exists, in the case of Town Clerks and Medical Officers, and certain other leading officials, a profession within a profession.

Two effects have been produced by this phenomenon. In the first place, some of the professional officers in the municipal service have evolved or become associated with separate vocational bodies in addition to their primary professional organizations. Thus, the Medical Officer will usually be a member of the Society of Medical Officers of Health as well as of the British Medical Association; the Surveyor will be a member of the Institution of Municipal and County Engineers as well as of the Institute of Civil Engineers; the Accountant will belong to the Institute of Municipal Treasurers and Accountants as well as the Institute of Chartered or of Incorporated Accountants.

Despite the emergence of these specialized vocational organizations, the qualifications required for entry into the various professions are in the main determined by the members who are engaged in private practice, for these constitute the bulk of the membership. Hence, the professional education normally provided is often hopelessly inadequate or unsuitable for men who intend to undertake the more complex sort of municipal administration. Partly in consequence of this, but also partly owing to less disinterested considerations, we may note, as a second result, that a kind of apprenticeship system has



grown up in the higher ranks of the local government service. In a large number of cases a young man who wishes to become a Town Clerk will become articled to a solicitor holding that office; and a similar arrangement often obtains among municipal Engineers or Surveyors.

The ordinary rules of the profession have hitherto applied to these transactions, and the leading officials of Local Authorities have in this way often been enabled to accept substantial fees paid, in theory, as a premium for providing instruction into the mysteries of the profession. The question was bound to arise sooner or later whether it is desirable to permit public servants to make private profit out of the business of initiating newcomers into the conduct of municipal affairs. Although justified by professional usage, I have always felt that there were overwhelming disadvantages from the public point of view in permitting salaried officers to indulge in a traffic of this kind, not the least of which is to give rise to the frequent allegation (which may or may not be well founded) that the likelihood of promotion in a department is best secured by the payment of a substantial premium to the officer at the head of it. A few local authorities have for long refused to allow their professional employees to retain fees paid in respect of premium pupils. It is to be hoped that this practice will become general. The Royal Commission on Local Government were unfortunately unable to recognize that there should be any interference with the present system, "so long as the arrangements are approved by the local authority concerned."<sup>1</sup> This was not the view of the Hadow Committee; and the National Whitley Council has now set its face against the practice.

### THE RANK AND FILE OF THE SERVICE

Although it is only the small directing staff at the head of various departments that is deemed "professional" in the

<sup>1</sup> R.C.L.G., Final Report, p. 127. For a statement of the recommendations of (a) the Hadow Committee on Local Government Officers and (b) the Charter issued by the National Whitley Council for Local Authorities' Staffs. See below, pages 349-356.

accepted sense of the word, there is a high degree of vocational organization existing throughout the local government service. The manner whereby the vocational associations in which the rank and file of the service are grouped have endeavoured to lay down minimum qualifications of knowledge or education, to be imposed on all members of particular grades or classes of officers, is a striking phenomenon of considerable significance. These bodies have persistently attempted to impose qualifying tests on all members of the occupation, and to secure their recognition and enforcement by local authorities throughout the country.

The National and Local Government Officers Association, with a membership of more than 200,000, has for long been in the forefront of the movement for raising the educational standard of the clerical and administrative classes of the municipal civil service. Its efforts in this direction, which have ultimately prevailed over the apathy and indifference manifested by local authorities, are highly creditable and farsighted. Their aim has always been to further the public interest by improving the personnel of the municipal service.

But N.A.L.G.O. is by no means the only vocational organization which has persistently endeavoured to lay down minimum qualifications of knowledge or education for its members in the municipal service. Similar attempts have for long been made by such representative bodies as the Association of Rate Collectors, the Sanitary Inspectors Association, the Institute of Municipal and County Engineers, the Institute of Municipal Treasurers and Accountants, the Women Sanitary Inspectors and Health Visitors Association, and other similar groups. The movement by these vocational associations towards professional qualification, accompanied by a keen and vigorous interest in the advancement of professional knowledge, is the most striking characteristic of the municipal service voluntary organizations. This movement is no doubt due, primarily, to enlightened self-interest, but it would appear to have been entirely good in its results.

The efforts of N.A.L.G.O. and the other vocational associa-



tions to raise the level of education and vocational qualification were continued without interruption during the past quarter of a century or more. Until recently they did not meet with any widespread support from local authorities, for various reasons unconnected with the desire to improve the general level of the municipal civil service.

“A general recognition of the aspirations of the Association” observed the representatives of N.A.L.G.O. in their evidence before the Royal Commission on Local Government “has not been forthcoming from the local authorities.” The work of the N.A.L.G.O., they went on to say, in regard to improving the standard of recruits and the further education of local government officers, “has not received the encouragement from the local authorities which the importance of the question deserves. The recruitment, training and promotion of local government officers is . . . of paramount importance.”

That was in 1927. In June 1928 a meeting was held of a joint committee appointed by the County Councils Association and the Association of Municipal Corporations to consider the subjects of recruitment, education and training of local government officers. This committee, “after careful deliberation,” passed a series of resolutions bearing closely on the proposals put forward by N.A.L.G.O.

The committee recommended in the first place that the question of educational qualifications for new entrants is a matter which should be left to the complete discretion of individual local authorities. They did not consider that qualifying examinations passed by officers after entry should be made a condition of promotion; nor was it desirable, in their view, that the various associations of local authorities should set up an examinations board jointly with N.A.L.G.O. This report of the committee was adopted by the County Councils Association and the Association of Municipal Corporations; and evidence to this effect was given by these bodies before the Royal Commission on Local Government.<sup>1</sup>

<sup>1</sup> R.C.L.G., Final Report, p. 123.



It was clear from this and other evidence that no considerable progress could be looked for from the great mass of the local authorities in regard to methods of recruitment, unless the question were considered from a national (though not a centralized) point of view.

### METHODS OF RECRUITMENT

Any scheme which proposes to remedy the present state of affairs must commence by recognizing the overwhelming advantages which competitive literary examination has been proved to possess over any other known method of recruiting personnel for the public service, at any rate up to the time when candidates have attained the age of twenty-four or twenty-five years. More than half a century's experience of the system of competitive examination in the national Civil Service at home and overseas, not to mention a host of foreign examples, has proved to the point of demonstration that competitive written examination is the best instrument for securing for the public services the most able recruits from school and university. Written examinations do not disclose a number of valuable qualities; but the characteristics they do disclose are of paramount importance in the complex administrative machinery of modern government. The psychological tests used in the Army during the war of 1939-45, and which are now being tried out in the Civil Service, may well prove of the highest value in supplementing written examinations. It is unlikely that they will displace them.

It has long been evident that, if we aim at improving the quality of human material flowing into the local government service, two steps are absolutely necessary. In the first place, we must endeavour to secure the entry into the municipal service each year of a small number of promising young graduates from the universities, to be trained for the higher positions. In the second place, we must provide a series of qualifying and competitive examinations for the general grades of clerical, technical and administrative officers.

As regards the first of these objectives, the advantages of a university education in training the mind and developing the creative faculties during one of the most formative periods of life are so generally recognized as to require no emphasis.

In industry and commerce, uneasiness is being shown at the results, in terms of economic leadership, of the policy of taking in a lad at fifteen or sixteen years of age and leaving him to "work his way up from the stamp book." The larger and more progressive firms are beginning to realize more and more the value of a university training; and on all sides efforts are being made to provide opportunities in business for young graduates with a good record of work and play at the university behind them.

In the municipal service, however, there has until recently been little or no recognition of the need for obtaining a regular supply of men who have spent three or four of the best years of their lives at a university. Outside the education service there are scarcely any appointments at present offered by local authorities likely to attract young men leaving the universities at about twenty-one or twenty-two years of age. The number of senior officers who have received a university education is remarkably small. Most of those who have been to a university have generally taken a vocational course rather than one in the more enlarging subjects. And as I have already pointed out, even the professional training in law or civil engineering or surveying is frequently obtained through apprenticeship to a municipal officer.

The reluctance of local authorities to recruit graduates in other than specialized subjects such as law and medicine has become more difficult to understand in view of the fact that they are supporting the universities in two ways. Local education authorities are providing monetary awards to enable the most promising young men and women in their areas to receive a university education at public expense. Furthermore, many county boroughs and county councils are contributing substantial sums to the universities serving their areas. It is clearly inconsistent to



acknowledge in these ways the value of a university education without attempting to secure for the local government service a proportion of the young men and women who have benefited from it. Fortunately, one can say that there are definite signs of a change of outlook on this subject among both councillors and chief officers. Wherever an attempt has been made to recruit university graduates the results have been favourable, not only in the quality of the personnel obtained, but also in regard to their relations with the rest of the staff. We may hope to see considerable developments in this direction in the coming years. The chief need is to recruit young men or women who have graduated in the social sciences or in the arts faculties, and to give them an opportunity of rising to the higher administrative posts on proof of their ability. They must, moreover, be afforded the opportunity to take any professional or technical qualifications which may be necessary to enable them to attain high rank in the service.

### COMPETITIVE EXAMINATIONS

Perhaps further discussion of this problem of how to attract able young men from the universities may best be deferred until something has been said concerning the general scheme of recruitment which it would be well to establish.

Assuming that competitive literary examination is desirable, the question arises as to what body or bodies should act as the examining agency. At a conference which took place at Cambridge in 1928 under the auspices of the Institute of Public Administration, a number of papers were read on this subject, but no agreement was forthcoming as to what body should be responsible for the examination of candidates. Various ideas were put forward. Different speakers favoured in turn the local authority, the universities, professional associations such as the N.A.L.G.O., Whitley Councils and a Local Authorities Public Service Commission, consisting of representatives of the associations of local authorities, of the Faculties of Political Science or Economics of four Universities, together with a sprinkling of



members nominated by N.A.L.G.O., the Institute of Public Administration, and the Minister of Health.<sup>1</sup>

The real question is how far the work of examination shall be centralized or decentralized.

The idea of a nation-wide personnel commission is in many ways attractive. It would secure uniformity of standards. The importance which such a body would possess would make it possible to secure men of reputation and ability to serve on it. The mere ubiquity of its jurisdiction would be an advantage, in that it would produce an equalization of talent or ability as between different areas. Despite these advantages there is a good deal to be said for breaking up the work on a geographical basis. We have to remember that a very high proportion of the official staffs of local authorities—according to a well-informed expert no less than 95 per cent<sup>2</sup>—are originally recruited from within the administrative area of the appointing authority. The starting-point in the official career of most municipal officers has been the town hall of his native place, though the senior officials are accustomed to frequent moves.

It is not feasible to abrogate at a single stroke the localism inherent in the existing arrangements. Local patriotism has some place in municipal administration, not only in the council hall and committee-rooms, but also in the offices and yards and works of the local authority. Other things being equal, it would appear desirable on that ground to allow for the continuance of recruitment on a more or less local basis.

Apart from civic sentiment, there are other factors of considerable importance to be taken into account. Parents are not always willing to permit boys of sixteen or seventeen years of age to reside permanently in distant towns far from home; nor is it always in the best interest of a youth that he should be wrenched violently out of his customary environment during the difficult period of adolescence. The argument applies even more strongly in the case of girls. Finally, there is the economic

<sup>1</sup> *Public Administration*, vol. vi, No. 3.

<sup>2</sup> *Examinations for Local Officials*, by L. Hill (then General Secretary of N.A.L.G.O.). *Public Administration*, June 1928, p. 313.

factor. Local authorities do not usually offer junior entrants into the service a salary sufficient to enable them to live in reasonable comfort away from home; and although parents are often able to provide a home for the lad in his early working years, they are seldom in a position to pay the difference between the economic value of his services and the cost of living for a black-coated worker in the public service.

It may be said, of course, that a national public service commission could overcome this difficulty by breaking up the field of examinees into territorial divisions and arranging for separate tests to be held in each area. If that were done, we are presented with a measure of decentralization which merely deprives local authorities of any direct responsibility for the character and quality of the competitive examinations while compelling them to accept the results thereof. Having regard to the traditional tendencies in English municipal affairs, this does not appear to be the most desirable solution.

There can be little doubt but that an individual local authority is too small a unit except in the case of the largest authorities. In order to get good results, it is necessary to offer a fairly large number of vacancies, and thereby to attract a large field of candidates. The examining body should therefore cover a large area of jurisdiction.

#### LOCAL PERSONNEL COMMISSIONS

In giving evidence before the Hadow Committee on Local Government Officers, and prior to that the Royal Commission on Local Government, I advocated a scheme of recruitment based on groups of local authorities formed for each region in the country. My proposals envisaged a series of joint committees formed, *ad hoc*, under the direction of the Minister of Education and the Minister of Health. These joint committees were to consist of members of county and county borough councils. Their task would be to appoint from time to time a personnel commission to act for the regional area. These commissions were to be independent bodies appointed for a period



of years. Their members might have included educationalists, eminent administrators, university professors and members of the larger local authorities. It might be desirable to have a chairman nominated by the Minister of Health or of Education.

The Hadow Committee accepted my proposals in regard to methods of recruitment; and they also adopted my suggestion that competitive examinations should be held, by neighbouring local authorities on a regional basis.<sup>1</sup> What neither I nor the Committee foresaw was that Whitleyism was destined to develop rapidly in the sphere of local government during the ensuing years; and that the provincial Whitley Councils might become suitable bodies for holding competitive examinations for new recruits entering the service at ages 16 and 18-19. An organ which contains representatives of the local government service in addition to local authority representatives is greatly to be preferred to one comprising only the latter element.

I shall describe later the provisions contained in the Local Government Officers' Charter issued by the National Joint Council for Local Authorities' administrative, professional, technical and clerical services. I would only add here that the provincial Whitley Councils may well find it necessary, in carrying out these functions, to appoint expert ancillary organs not unlike the personnel commissions I had in mind. That has occurred in the case of the National Joint Council, which has appointed a Local Government Examinations Board, and an expert Examinations Committee, to conduct the qualifying examinations which act as promotion bars for serving officers.

The personnel commission would aim at holding examinations to correspond with the two main ages of recruitment. It is generally agreed that sixteen years is the minimum age at which entrance to the clerical and administrative grades should be permitted. There should accordingly be an open competitive examination for junior entrants at sixteen or seventeen years old. Candidates at this age should have obtained before entry the General Certificate of Education; and they should be required

<sup>1</sup> For a resumé of the Committee's recommendations see below, pages 349-353.



to have passed in those subjects normally specified by universities and professional bodies for students desiring to proceed to higher education or professional training. It is important that the subsequent educational progress of an officer should not be blocked by his having failed to surmount this preliminary barrier, which becomes more difficult with increasing age. There should be a competitive entrance test of this kind, founded on the subjects of general school education, in place of the qualifying examination, which is now sometimes demanded. Such a large proportion of boys and girls now take the General Certificate of Education examinations that a selective process is required.

A second type of examination should be held for youths of eighteen or nineteen: that is, maximum leaving age at secondary schools and the public schools. But this examination, which again should be competitive, ought not to be confined to candidates coming straight from school.

#### RECRUITMENT OF JUNIOR ENTRANTS

Before 1939 local authorities had no difficulty in attracting junior staff, but the prevailing methods of recruitment were extremely diverse and haphazard. The larger local authorities recruited junior entrants mainly from the secondary schools at about 16 years of age. In certain areas recognized qualifications of education were required, and some councils organized entrance examinations of their own which were usually of school certificate "credit" standard; in others, boys and girls of 15 years of age upwards were accepted without any educational qualifications; in yet others there was a continuous pressure by councillors or aldermen to enable them to exercise influence or patronage in the appointment of junior staff. There were no national standards of qualification or of education which applied throughout the country.

The more enlightened authorities recruited young people from the secondary schools who had attained at least the School Certificate standard. Junior entrants who had reached that standard would frequently be capable of undertaking further study of a serious kind to qualify them for professional or technical

posts. Some authorities gave facilities for juniors in their service to obtain the rudiments of commercial education.

The Charter for local government officers, which we shall describe in detail later laid down in principle for the first time national standards of recruitment. It prescribes that the minimum age for the appointment of juniors shall normally be 16 years. It further declares that entry to the service shall be by examination, which is to comprise ■ qualifying stage of not less than School Certificate Examination, followed by a competitive stage including interview, to sift those who have passed the first stage. A proportion of junior officers may be recruited at 18 or 19 years of age: that is, at the secondary stage of education. Such candidates would be subjected to ■ competitive examination.

The good intentions of the charter have unfortunately so far been frustrated by circumstances which since 1945 have greatly reduced the stream of candidates desiring to enter the local government service. This drying up of the stream is due to several causes, including the drop in the number of school leavers at both of the age groups mentioned above. An increasing number of boys and girls from the grammar schools go on to the universities and are therefore not available for employment until they have graduated. There is increased competition for grammar school boys from industry, from the nationalized industries, from the civil service and from other types of employment in which the terms and conditions compare favourably with those offered by local authorities. Several years of full employment have diminished the attractiveness of the security of tenure which undoubtedly made a powerful appeal during the inter-war years.

It is, of course, impossible to impose competitive tests of recruitment in ■ situation where there is an inadequate supply of candidates to meet the needs of the employing authorities concerned. In consequence, the provisions of the charter have been widely relaxed.

A survey undertaken by the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services in 1948 indicated that whilst local authorities were



endeavouring to recruit at School Certificate standard it was impossible to insist upon it because the number of applicants of this standard was insufficient to fill the number of vacancies. Of 1,530 local authorities, 938 (just under two-thirds) replied to a questionnaire on standards of entry. 329 insisted upon School Certificate or its equivalent, 204 had relaxed this standard in order to fill their vacancies, 31 conducted their own entrance examinations (of varying standards) and the remaining 374 apparently recruited anyone they could get. The replies indicated that the 938 authorities had recruited during 1947 3,474 young persons under 18 years of age and 640 between the ages of 18 and 19.

In 1951 the School and Higher School Certificates were replaced by the General Certificate of Education at three levels, ordinary, advanced and scholarship. The practical effect of this change, as far as local government recruitment was concerned, was that the old certificate with its minimum or group requirements indicating a general level of education in a number of subjects was abolished, to be replaced by a certificate which it was possible to obtain in only one subject. In common with the professions and the universities, local authorities prescribed minimum requirements in terms of the General Certificate, and the National Joint Council, on the recommendations of the Local Government Examinations Board, laid down that the standard of entry should be ■ General Certificate of Education in English or English Language, Mathematics and two other papers at ordinary level.

The General Certificate of Education, although open to anyone, is usually taken by pupils in secondary grammar schools. It was realized that in order to fill the vacancies for junior staff local government would have to recruit also from the secondary modern schools, the National Joint Council decided to establish ■ Junior Entrants' Examination. This examination, devised and conducted by the Local Government Examinations Board, consists of only three papers—English (including an essay), arithmetic and a general paper. The Board felt that it would be impossible to frame question papers sufficiently wide to cover all the aspects of



other subjects dealt with by the modern schools and that to attempt to do so would have an undesirable influence upon the curricula of these schools which the Ministry of Education intended should not be affected by external examinations.

There the matter rests for the present—but only for the present, one hopes. The Local Government Examinations Board is willing to conduct a junior entrants' examination when requested to do so, and a few such requests have been received. But the position can only be rectified in its larger aspects by drastic measures designed to increase the attractiveness of the local government service to junior entrants.

### OPENINGS FOR UNIVERSITY GRADUATES

The case for a competitive examination suitable for candidates of university education is not nearly so strong as the case for competitive examinations at the other two stages of education already indicated, at any rate for the present. The primary task for the immediate future is to secure a flow of university graduates of good quality into the municipal service; merely to obtain each year a few good men with this qualification would itself be a big step forward, quite apart from competitive examinations.

The young university man is not at present accustomed to look to municipal administration for a career. The business of attracting him thereto, in competition with industry, commerce, the professions and the Civil Service, will prove quite hard enough to start with without adding to the difficulty by setting up competitive examinations. Furthermore, the honours schools in the various faculties already serve as selective criteria of intellectual ability. I think we should aim ultimately at holding competitive examinations for *all* first entrants to the service, whether coming in at 16 years or after graduation; but for the next five or ten years attention should be concentrated on the provision of opportunities likely to attract the young graduate. A commencing salary of £450 to £500 per annum should be offered during a probation period of, say, two years, with a substantial rise if the appointment is confirmed.

But more important than the commencing salary is the interest and scope of the work offered. Young men with trained minds must not be wasted on mere routine work, although it is no doubt true that a few weeks spent in each department is an excellent preliminary step for a future executive, and ensures that he will have a good idea eventually of the way in which the routine work is done. It is obvious that even the most brilliant young men cannot be given responsible and constructive work until they have gained some experience of the routine organization. But they can and should assist the chief officers in the creative and more difficult aspects of their duties, and in that way get a sense of the dimensions of the problems of municipal development.

A good use might be made of some of these young men by employing them during their second year of service on drawing up reports of various matters closely affecting the life of the city or country, or making a survey on some undeveloped or novel aspect of municipal affairs. The late Professor H. A. Mess has shown in his series of Tyneside Papers what valuable use can be made of the material already available from local municipal sources; and similar documents might well be prepared by young graduates in their probationary years of service. It used to be the practice in the Indian Civil Service to send young men, shortly after their arrival in India, for a six months' tour of the province with instructions to draw up a general report on what they had seen, with suggestions of any improvements they considered might be made. This plan was found of great value; and local authorities might well endeavour to obtain and turn to account the impressions of a young graduate on his first acquaintance with the inside working of the municipal organization.

If and when the time comes to establish competitive examinations to correspond with the university standard of education, the emphasis in those examinations should be laid on general mental development and a knowledge of the social background to public affairs rather than on the acquisition of narrow tech-



nical knowledge and specialist information. At present, far too much stress is laid upon specialized knowledge for the chief departmental positions, and insufficient consideration is given to general administrative ability of the kind which enables a trained executive to apply his mind effectively to almost any type of governmental or business problem.

This raises the whole question of the character and training of the head officials, but before discussing this I would point out that none of the proposals so far made would interfere fundamentally with the freedom of local authorities to control their own officers. The only limitation imposed would be that new appointments would be confined to the group of examinees who had distinguished themselves most in the competitive examinations and the personal interview which would naturally follow them.

Mention has already been made of the sharp differentiation which exists in the municipal service between the directing executive composed of men with professional qualifications, and the rank and file of the service consisting of clerical, technical and manual workers. Although it is only in the case of the Medical Officer of Health that a professional qualification is actually prescribed, local authorities are accustomed to require standard professional qualifications for most of their other leading officers.

#### TECHNICAL QUALIFICATIONS IN RELATION TO GENERAL ADMINISTRATION

We may next consider the relation between specialized technical knowledge and general administration, a question which is illustrated in a vital way by a consideration of the position of the Town Clerk. It has been suggested by Lord Simon of Wythenshawe, formerly Lord Mayor of Manchester, that it is by no means necessary or desirable to confine the post of Town Clerk to lawyers, or that of head of the public health department of a large authority to a doctor.<sup>1</sup>

<sup>1</sup> E. D. Simon: *A City Council from Within*, pp. 133-4.



It may be emphasized that the question of what type of ability and training the Town Clerk ought to possess is purely a matter of administrative expediency, and has no relation to any question concerning the constitutional character of our local government system. In the national government we find precisely the opposite arrangement to that existing in municipal affairs. The head of a great department of State is invariably an administrator. The legal work is done in a separate division of the department, and the lawyer in charge of it, together with all the other Civil Servants belonging to the "professional" class, is seldom able to reach the highest administrative positions in the service. Thus, in local government we insist on the head of a department being a professional, and permit none but lawyers to occupy the highest administrative position. In the central government we refuse to allow the permanent official at the head of a department to belong to a professional grade, and usually bar lawyers from the highest administrative positions.

Could anything be more inexpedient or short-sighted or unjust than these narrow rules of appointment and promotion? In the last resort we want men, not categories; and although it may be desirable to insist on certain types of specialized mental equipment as a normal attribute for the average officer, administrative ability of the first rank is so rare a quality that we cannot afford to recognize it only when it is found among individuals who have undergone a particular kind of vocational training and experience.

The chief executive positions in large local authorities are so important and require so varied a combination of qualities that the filling of them will always remain to some extent a special problem, resisting all attempts at solution by formula and prearranged plan. But although we may not be able to discover any method for producing with infallible certainty the exact individual we require at any given moment, we can nevertheless profitably discuss the type of man who seems to be needed for the position of Town Clerk.

## THE WORK OF THE TOWN CLERK

The character of the work which the Town Clerk is required to perform has changed enormously during the past half-century. In the unregenerate days of the old unreformed boroughs prior to the Municipal Corporations Act 1835 the Town Clerk's duties were in the main either ceremonial or connected with the maintenance of law and order in the borough. Even after the passing of the Municipal Corporations Act of 1835, the Town Clerk's office was for several decades chiefly concerned with such matters as the drafting of by-laws and Private Bills, the affairs of the Commission of the Peace for the Borough and the Borough Police Force, the abatement of nuisances, the disposition of real property owned by the corporation, and similar duties connected primarily with the legal process. It was natural, therefore, that a lawyer should come to be regarded as a valuable man to fill the office, especially when we bear in mind the widespread desire to escape from the rottenness and corruption disclosed by the Royal Commission on Municipal Corporations of 1835, and the high reputation for integrity and honesty which members of the bar had for long enjoyed.

During the past forty or fifty years, however, the nature of the Town Clerk's work has changed considerably, for the simple reason that the nature of local government has itself changed. The main concern of the town council is no longer the maintenance of law and order among the local inhabitants, the policing of the city or the repair of its highways. These perpetual necessities continue to exist and to demand attention, but the real centre of gravity has shifted to the vast body of social services which the local authority is called upon to provide. Public health in all its branches, education, housing and town-planning, public assistance, maternity and child welfare, public libraries, water supply and transport services—these are the functions which dominate modern local government, and it is these questions which demand the attention of the leading official of the county borough or county council.



Whether these questions in fact secure the attention of the Town Clerk or Clerk to the County Council depends on the type of man who occupies the position. An unimaginative man of narrow outlook can find more than enough work to fill his time in attending to the purely legal aspects of the council's affairs in these and other fields. But the best and most vigorous and creative Town Clerks devote their main energies to considering the large administrative questions relating to the work of the authority as a whole, the co-ordination of the separate departments, negotiations with the central government, new and ambitious schemes of municipal development, and the intelligent anticipation of future problems and difficulties. This work is of predominant importance. It is not legal in the technical sense, and there seems no particular reason why the chief executive officer engaged upon it should also be specially responsible for the technical legal work of a local authority. The majority of Town Clerks in the great cities spend only a fraction of their time on law duties, and there appears to be no good reason why they should not be encouraged, if they so desire, to set up a separate department to deal with legal affairs, with a lawyer at the head of it, to which the law work would be referred in the ordinary way.

The effect of this would be to enhance the position of the Town Clerk rather than to disparage it. The Town Clerk is in many cases to-day only nominally recognized as the leading official of the local authority. In practice he is often regarded by his colleagues as being no less of a specialist in charge of a single department than the Medical Officer of Health or the Treasurer. The Town Clerk will be more likely to emerge definitely and clearly as the chief official of the municipality if he sheds the technical legal work to a separate department, over which he would continue to exercise a general control.

A certain amount of misunderstanding has arisen in recent times owing to suggestions being made that the City Manager idea should be introduced into this country, or that the Town Clerk should be superseded by a City Manager, or something



of that kind. The friends of efficient local administration would be well advised to leave out of the discussion all reference to the City Manager idea, which originated in America under entirely different circumstances. The City Manager scheme is not merely a method of administration: it involves constitutional changes in the very framework of municipal government. It is an alternative to other forms of city government—not merely of internal administration—which now exist, or have existed, in the United States. Without a comprehension of the alternative methods of city government, the City Manager plan cannot be understood, and since the alternative methods do not exist in this country, it is only misleading to speak of introducing the City Manager plan into England.

#### THE POSITION OF THE CHIEF OFFICER

A suspicion that all is not well at present undoubtedly crossed the mind of the Ministry of Health about thirty years ago, when the following observations appeared in their Annual Report for 1923-4:—

“Some difficulties have been caused during the year by proposals to give the Town Clerk more extensive powers of control over other officers than are usually provided for expressly by the terms of appointment.

“It is manifest that a Town Clerk or any other officer could not properly dictate to other persons in the employment of the Local Authority, the Medical Officer of Health or the Engineer, for instance, what they should do in the details of technical matters within their particular purview. Nor could any Local Authority impose on any one of their officers duties in conflict with those conferred on any other officers by statute or by central regulations.

“The proposal to make some one officer definitely responsible for the general supervision of the whole of the business of the Local Authority, and their chief adviser on all matters of policy is, however, a different question.

“The work of Local Authorities has changed very con-

siderably in recent years. The large Authorities, in particular, in addition to being the bodies regulating matters of local government in their area, are in fact important business corporations, carrying out costly services, trading and other.

"There appears to be room for consideration whether, while maintaining to the full the traditions of local government service and, especially, of democratic control, the time has not come for some further development of the administrative arrangements of the Local Authorities, and for their having one chief official who, whatever his title, shall be in a position of definite responsibility for the general official organization.

"It may be premature to express any decided opinion on this possible development, but the question clearly merits attention. Two conditions would always have to be fulfilled: (1) the unquestioned control of the elected body; (2) no derogation from the responsibility of the present principal officers. The value of any such chief official as has been suggested would depend very largely on his exercising general control, on his not attempting to do the detailed work of officers expressly appointed because of their specialized qualifications, and on his working in full harmony with them."

Neither the Ministry of Health nor the Ministry of Housing and Local Government appears to have shown any further interest in the matter since this message of exhortation and good will, nor to have given vent to any subsequent official utterances. Yet the Ministry could do much to influence local authorities and their officers to take a more liberal view of the position which the Town Clerk or the Clerk to the County Council ought to occupy.

The whole question of the internal organization of the local administrative staff calls for examination, and has up to the present received little attention. In particular, the relations of the chief officials of a local authority among themselves vary widely and demand definition, analysis and forethought. One of the most successful methods of organization occurs where provision is made for the holding of regular conferences



between the head officials in charge of the various departments. The beneficial results of this are twofold. In the first place, the Town Clerk is assured that no important project comes to his attention from one department, for presentation to the council, without having been considered by the other departments concerned; and in the second place, the functional committee promoting a scheme has the advantage of learning the respective points of view of the other departments before coming to a decision.

### THE QUALIFICATIONS OF THE CHIEF OFFICER

The position occupied by the Town Clerk is, as we have seen, only one side of the equation. The other side is the question of the training and qualifications possessed by the holder of that office.

The present custom is to appoint a lawyer. This means that among the smaller county districts or non-county boroughs the Clerk will often be a solicitor in private practice working part-time for the local council. Among the larger authorities, where full-time appointments are the rule, candidates are in practically all cases required to be barristers or solicitors. There is a rapidly increasing tendency to confine the appointment to solicitors only, and if things go on at their present rate in a few years there will not be many barristers in the service.

But the question has been raised as to whether a knowledge of law is necessary for the chief executive of a great city council; whether, in fact, local authorities would not be wise to select as their chief adviser a man of proved executive ability from some other realm of general administration—say, from business or industry, from the public service, or a distinguished engineer.

There can be little doubt that some knowledge of the law is essential for a Town Clerk for the paramount reason that local government in this country has to operate within a complex framework of statutes and regulations, rules of common law and equity. The doctrine of *ultra vires* is alone sufficient to preclude most local councillors from appointing a man to be Town Clerk



who does not know all about the legal nature of corporate bodies, and the dangers of ignoring their limitations. The Director of Housing may make a mistake about a housing scheme, or the Education Officer may misjudge the educational needs of his area, with the result that the sitting members of the council may be politically discredited and turned out of office at the next election. But if the Town Clerk advises the council wrongly, and allows them to embark on activities involving *ultra vires* expenditure, the whole cost may easily fall on the innocent but responsible members of the council.

It seems to be absolutely clear that the chief officer ought to possess a sound working knowledge of constitutional law and the legal structure of our local government system. He should be broadly conversant with the statutes and regulations governing the procedure and functions of local authorities, and the powers of government departments. He should know the elements of the law of contract and tort and *ultra vires*.

Beyond this general background of legal knowledge which a Town Clerk should possess, if he is to keep his council on the path of safety and peace and immunity, and guide it forward on progressive lines without danger of personal liability to the councillors, I do not see that the Clerk need have any additional knowledge of the more technical aspects of law or procedure, provided the technical legal work is transferred to a separate department.

In the United States of America, the great majority of City Managers are engineers by profession, although when in office they devote themselves to questions of general administration. Engineers, however, have been selected for the job more on account of the popular belief in America that engineering comes next to godliness, that a man who can wrestle successfully with masses of steel and iron can overcome any problem, that the engineering approach is aggressive (in the best sense) and scientific (in the worst sense) and non-political, rather than from any careful analysis of the qualities actually demanded by the work. The weakness of the technical engineer in the

more general departments of public affairs is precisely his tendency to ignore the human elements in the situation, his frequent inability to discuss, negotiate, temporize and come to terms with people who are often satisfied with mere verbal alterations which seem to him pedantic. He sometimes tends, in short, to treat people like mineral products, just as the doctor in public life tends to treat them like patients requiring treatment. On the other hand, the engineer is accustomed to think continually of the functional results of his work, and for the most part his "attack" is a positive and constructive one. The lawyer is accustomed to negotiation, to clarifying and analysing the real grounds of difference, to recognizing that other people have other points of view and may feel strongly if their interests are threatened. He is also often useful in discovering an acceptable formula, a compromise, a *modus vivendi*.

But I do not think that the sort of training given either to the average lawyer or the average engineer is really suitable for the ideal Town Clerk. Three-quarters of the technical legal knowledge required for the solicitor's or barrister's final examination is almost useless so far as the higher executive work of a chief municipal officer is required. Moreover, very scanty attention is given to those branches of law which specially appertain to local government.

On the other hand, a knowledge of the social sciences, of economics and statistics, of political science and social psychology, would appear to afford an excellent educational background on which to graft the administrative experience likely to produce an executive chief of first-class capacity.

What that experience ought to be it is impossible to say with any confidence. Quite often the municipal service is itself able to produce the very qualities most needed at the topmost rungs of the ladder. Certain Town Clerks who are admirably fitted for their work have never had outside experience. There are also leading officials in other departments of local authorities who would make excellent Town Clerks if the technical law work were shed off to a special department.



I could mention the names of men who are now holding, or have held, the posts of Director of Education, Treasurer, General Manager of a Tramways Department, Chief Electrical Engineer, and Medical Officer of Health in large county boroughs, who would have made exceptionally good Town Clerk or Clerks to County Councils. They have been definitely precluded from holding the latter appointments by the traditional insistence on professional legal qualifications and experience. I cannot believe that it is wise to "compartmentalize" the chief officials in this way.

It is interesting to note that the Onslow Commission, in their Final Report, adopted this line of argument to the extent of recommending that, although in the majority of cases the Town Clerk should have legal qualifications, it would be regrettable, in the case of the larger authorities, "if such a requirement were maintained to the exclusion of candidates who might bring into the service administration abilities of a high order."<sup>1</sup>

A local authority in need of a big man should not refuse to look outside the service in its search for executive talent. There are men of imagination and proved administrative ability in industry and commerce, shipping and finance, on the railways and in the Civil Service, in the universities and schools and the professions, who would make an excellent showing in the Town Clerk's office of a large city.

#### MOBILITY BETWEEN THE NATIONAL AND LOCAL SERVICES

Most important of all is the question of mobility between the national Civil Service and the municipal service. There is no reason at all, apart from conventional traditions, and certain technical difficulties which have resulted from the operation of those traditions, why central and local officials should not be interchangeable. In the case of a number of professional appointments, a limited amount of interchange has actually taken place. For example, some of the medical staff at the Ministry of Health, including a former Chief Medical Officer of

<sup>1</sup> R.C.L.G., Final Report, p. 137.



Health, have been recruited from local medical officers; and the last Clerk to the London County Council had previously been an administrative official in the Ministry of Health.

But these are rarities. There is no case on record, so far as my knowledge goes, where a county borough has taken a high administrative civil servant from the Treasury or the Ministry of Health or the Home Office as their Town Clerk; nor is the Ministry of Health or the Home Office accustomed to scrutinize the ranks of the leading municipal officers when a new under secretary or secretary is required. Yet a certain amount of interchange would have great advantages. The central departments greatly need an infiltration of men who have a practical sense of the needs and aspirations of the localities. The municipalities, on the other hand, would occasionally derive considerable benefit from the services of central government officials who are used to dealing, not with one local authority, but with all of them throughout the country, and who are in consequence aware of the immense variety of methods of administration prevailing in most fields of municipal activity. There must obviously be a limit to the amount of mobility which is desirable. No one desires to see the municipal service centralized, or the Civil Service localized, in spirit; but the fact that there is a point beyond which the idea of interchangeability could not be applied with advantage is no reason for not applying it at all.

There have hitherto been two main obstacles. The first is the rigid insistence by local authorities on technical or professional qualifications for their leading administrative officers. I have already pointed out the desirability of introducing greater flexibility in this respect. The second obstacle related to superannuation allowances. Pension rights in the Civil Service were until 1935 non-transferable, and were forfeited on leaving the service. Superannuation in the municipal service was by no means universal, and where it did exist it was not even co-extensive with the local government service. These difficulties have now been overcome. The Superannuation Act 1935 makes superannuation available to officials transferring

to or from local authorities, while another statute passed in 1937 made superannuation among local government officers universal and compulsory. The only remaining obstacle to interchangeability lies in the prevailing resistance to the *idea* of mobility. There is at present no sense of the organic unity underlying the apparent separateness of the local government service and the central administration.

### MOBILITY WITHIN THE MUNICIPAL SERVICE

The question of mobility arises also in connection with the transfer of officers from one local authority to another. There is far less lateral mobility than is desirable both between local authorities of the same class and between those of different classes. Here again the principal difficulty in the past has been the absence of a universal system of superannuation among local authorities. Now that a general superannuation scheme has been established, it should facilitate what may be termed free trade in municipal officers among the local authorities of Great Britain. That was envisaged by the Second Departmental Committee on the Superannuation of Local Government Employees. "We have no doubt," reported the Departmental Committee in 1928, "that a general system of superannuation would tend to raise still further the existing high standard of local government administration. . . . If the local government service is to attract the best type of recruit it must offer a career to diligence, energy and capability. . . . A local authority cannot draw candidates from the staffs of other authorities which have established superannuation schemes, if it has not such a scheme itself, or if there is no regular system of carrying rights of superannuation from one service to the other. In this respect the position is even worse since the Act of 1922 was passed than before." Compulsory superannuation is desirable for its own sake—it is almost an essential in a self-respecting public service—but it is specially necessary in local government in order to facilitate a high degree of mobility to take place among officers.



## THE REPORT OF THE HADOW COMMITTEE

Following a recommendation by the Royal Commission on Local Government, Mr. Arthur Greenwood, when Minister of Health in 1930, appointed the Departmental Committee on Local Government Officers under the chairmanship of the late Sir Henry Hadow. Its terms of reference were to inquire into and make recommendations on the qualifications, recruitment, training and promotion of Local Government Officers. This was the first occasion on which the staffs of local authorities had been subjected to official investigation by the central government.

The Hadow Committee produced an excellent report. It dealt with recruitment, the qualifications of principal officers, training and promotion, technical qualifications and personnel administration.

As regards recruitment, the Committee proposed that all vacancies should be widely notified, either by advertisement or otherwise, except where the local authority intends to fill a position by promotion from its existing staff. The selection of officers should not be left to the head of a department but should normally be carried out by a committee or sub-committee of the council. Various measures were suggested for the elimination of patronage, such as requiring candidates to disclose when they are related to a member or officer under penalty of being dismissed in the event of subsequent discovery. Members and officers of a local authority should similarly be required to disclose relationship to a candidate seeking appointment. The candidature of near relatives of members or officers would thus be subject to close scrutiny. Canvassing should be prohibited by standing orders.

The Committee urged that recruitment to the service should correspond with the three main stages of the educational system. The minimum age of entry for junior clerical officers should be 16 years and a certain proportion of them should be taken in at 18-19 years of age. The Report recommended open competitive examination as the best system of recruiting



junior clerical or administrative officers. Competitive examinations should be held on a regional basis by neighbouring local authorities combining for the purpose. The larger local authorities were advised to arrange for a regular intake of university graduates without technical qualifications. Here again the method of selection would be by competitive examination, but the examinations should be held on a national basis in order to obtain the widest possible field of selection. As regards professional and technical officers, local authorities should be prepared to tap all available sources of supply whether inside or outside the service. Local authorities should help promising junior officers to obtain the technical or professional qualifications required for the highest posts. The practice of permitting officers to accept premiums from pupils articulated to them should be abolished and the selection of pupils by the principal officers should be subject to the authority's approval.

The Committee emphasized that administrative ability is the essential qualification for town clerk or clerk to the local authority. "He should be a person of broad and constructive outlook, interested in the wider issues of local government, skilled in negotiation. And he should ordinarily have had experience of administrative work."<sup>1</sup> For these reasons too much importance should not be attached to the legal qualification. While a legal qualification may be convenient, it should not be insisted upon to the exclusion of persons of proved administrative ability. In general, recruitment to these key appointments should be on a wider basis than at present. Similar considerations apply to some of the other principal positions for which, although technical qualifications are required, more attention should be paid to administrative ability and experience.

In regard to training and promotion, the Committee urged that every local authority should adopt a proper grading scheme with fixed salary scales. They also pointed out the advantages which would accrue if broadly similar staff grades were in force

<sup>1</sup> Report, para. 98.

throughout the local government service, subject to local variations due to differences in the sizes and functions of local authorities. A high degree of standardization in this respect, they remarked, would knit the service together in a way calculated to increase its attractiveness to recruits, and would facilitate the movement of officers between authorities. The Committee were anxious to promote a greater degree of mobility, especially among the younger administrative and clerical officers. An impediment to free movement, the Committee observed, was the lack of a superannuation scheme in some areas. At that time only about 900 authorities had pension schemes.

One of the most important recommendations in the Report was the introduction of an examination bar as a condition of promotion for junior officers in the general clerical and administrative grade. This would take the form of a qualifying examination of "intermediate" standard, somewhat on the lines of the diplomas of public administration but less advanced. Men in the general grade desiring to become professional or technical officers would take the appropriate vocational examination instead. The administrative qualifying examination should be worked out by local authorities on a national basis. This part of the Report also dealt with methods of promotion, grants or increments for officers acquiring approved qualification, special leave and cognate matters.

In regard to machinery the Committee recommended that every local authority should appoint a committee to be responsible for all personnel matters. In the larger authorities an establishment committee should be set up for this purpose. In the smaller councils the general purposes or finance committee could act. The committee in question would organize the authority's system of recruitment and determine its intake. It would be directly concerned in the appointment of senior officers and would report all appointments to the council. It would deal with training, transfers, promotions, grading, salary scales, superannuation, probation and discipline, and periodical



reviews of staff. In addition there should be a central advisory committee representing all types of authorities, the London County Council, the Ministry of Health, local government officers and educational bodies.

The publication of this admirable report was a notable event. It gave rise to high hopes among most disinterested friends of local government. It was accepted by N.A.L.G.O. and the other staff associations despite a certain amount of heartburning among some sections of the service.

The Minister of Health attempted to get the Central Advisory Committee set up as a first step towards carrying out the Report. Unfortunately not all the associations of local authorities were willing at that time to co-operate in any measure which even remotely appeared to restrict the autonomy of each council to do as it pleased in regard to staff. The Minister did not feel able to go ahead without the participation of the dissentient associations. It therefore looked as though the Hadow Report had not received sufficiently widespread support on the part of local authorities to ensure the carrying out of those recommendations which required concerted action.

Nevertheless, the Report was far from dead. It was, indeed, scarcely possible for a document based on such sound principles not to exercise a lasting influence on opinion both inside and outside the service. A number of its proposals which did not require concerted action were adopted by individual local authorities, in some instances extensively. For example, establishment committees (or their equivalent) became general among the larger local authorities. The London County Council appointed a non-legal Clerk in the person of Sir George Gater, who had been their Education Officer and who was distinguished for his administrative capacity. Sir George Gater was later appointed permanent secretary of a government department, whereupon the council filled the vacancy thus created by appointing an administrative official of the Ministry of Health to be their clerk. In 1937 an Act was passed which made superannuation compulsory among all local authorities,



thus greatly facilitating mobility within the service. The National Association of Local Government Officers had been agitating for a universal superannuation scheme for many years, and the Hadow Report undoubtedly helped to bring their efforts to fruition.

### THE WHITLEY COUNCIL'S CHARTER FOR LOCAL GOVERNMENT OFFICERS

In these and many other ways the Report made its influence felt on the local government service. But its most forcible impact came about through the formulation and acceptance by the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services of a scheme of conditions of service designed to cover all local government officers in those four main classes. This scheme was passed by the National Whitley Council in 1946, and has been adopted by practically all local authorities. It is generally known as the Charter of the Local Government Service.

In an introduction to the scheme the National Whitley Council states that its object has been "to devise arrangements as to staffing which will attract to the local government service entrants of the type required to meet the future needs of local government. Adopting, accordingly, a long-term view, the National Council's aim has been to secure the improvement of both the status and the standard of the service; it has recognized that to improve the status without devising arrangements to improve the standard would be to increase the cost of the service without adequate compensatory advantage to the local authorities and the ratepaying public."

With this object in view the Charter lays down what the National Whitley Council regards as proper conditions relating to recruitment and training; general conditions of service; salary scales; official conduct and other matters. It also contains provisions respecting interpretation, appeals and the date of operation.

The Charter opens with a declaration that in order to obtain

the best qualified and most efficient service, officers shall be recruited from the widest possible field. The minimum age of entry for juniors shall normally be 16 years. Candidates shall be selected by means of examinations to be arranged either by the employing authority or by Provincial Whitley Councils acting on behalf of any group or groups of local authorities. The examination is to consist of two stages; a qualifying stage of not less than School Certificate standard followed by a competitive stage (to include an interview) to sift those who have passed the first stage. A proportion of junior officers may be recruited at 18 or 19 years of age by competitive examination. The Charter expressly states that it is desirable that the local government service should include university graduates. This aim is to be achieved partly by recruiting a limited number of graduates direct from the universities and partly by local authorities affording opportunities to officers in their employ to obtain degrees.

The Charter follows the Hadow Report in prohibiting officers from accepting premiums from pupils articted to them and in requiring the selection of pupils to be subject to the approval of the employing authority. It contains a proviso, however, to the effect that a professional officer shall not be bound to take pupils unless he wishes to do so, and that the selection of a pupil shall be his personal responsibility. Existing contracts of service are not to be adversely affected by these new provisions. Serving officers are to have opportunities for obtaining articles. This is a most important provision, since it will enable an impecunious young man or woman to bridge the gulf which has hitherto separated the clerical and administrative grades from the professionally qualified officers who occupy the most important positions in all departments. Elaborate proposals are made to encourage post-entry training of various kinds.

Part II of the Charter deals with conditions of service. Here we find standards and principles laid down relating to office hours, overtime, annual and special leave, discipline, sickness pay, removal



expenses, subsistence allowances, travelling expenses and welfare.

Part III lays down a national scale of salaries for personnel in the general division, clerical division, higher clerical division, miscellaneous division, and the administrative, professional and technical division. The effect of these scales will be to introduce ■ more or less uniform classification of local government officers throughout the service, which was one of the recommendations made by the Hadow Committee. This part of the Charter embodies provisions concerning the commencing salary of an officer, the appropriate increments, annual reports, staff complements, promotion and the pecuniary recognition of examination successes.

The Charter embodies the principle that an officer in the General Division shall not be eligible for promotion unless he has passed the promotion examination or has secured the qualification of ■ recognised professional institute. This is the promotion bar recommended by the Hadow Committee. The National Whitley Council has appointed an Examinations Board to conduct the examination; and the Board has in turn delegated the technical or academic aspects of its task to an Examinations Committee, composed of persons with special experience in these matters.

The Charter also embodies a number of rules and principles respecting official conduct. It adopts the proposals of the Hadow Committee regarding the disclosure of relationship between candidates and members or senior officers of the appointing authority. It prohibits canvassing. It insists on the direct employment by an authority of all persons engaged on its work, thus eliminating the "personal" employee of an officer. It forbids officers from communicating to the public the proceedings of a committee or the contents of documents unless authorized to do so. It imposes a high standard of integrity and courtesy on local government officers. It calls on local authorities to avoid invidious public debate on the salary and promotion of individual officers by leaving such matters to be dealt with by the appropriate committee.



The Charter is not by any means the last word to be uttered on the local government service. But it is certainly a first gigantic stride in the right direction. It would be difficult to over-estimate its value to the service and to the public. Its importance lies not only in its substantive provisions, although these represent large gains, but also in the fact that for the first time local government officers have been dealt with by a representative body as a service and not as a collection of individual staffs of local authorities. Such a departure from the practice which has hitherto prevailed is bound to continue, and it augurs well for the future.

We may, therefore, wholeheartedly agree with the concluding paragraph of the Whitley Council's introductory remarks that the scheme of conditions of service offers a reasonable career and should serve to enhance the position of the local government service and so to ensure an adequate flow of young entrants of the type required.

#### THE WORK OF THE LOCAL GOVERNMENT EXAMINATIONS BOARD

The Local Government Examinations Board is now conducting three separate examinations. The simplest is the clerical division examination, designed to serve as a qualifying test for promoting officers from the general division to the clerical division. This consists of two elementary papers in local and central government and one in English.

The more important examinations are the administrative intermediate, which qualifies for promotion to the grade known as A.P.T. IV; and the administrative final. These examinations are academic in character and are not narrowly vocational. They aim at ensuring that a local government officer who is promoted to administrative work shall have engaged in studies which will broaden his outlook, sharpen his critical faculties, and give him a better understanding of the social, economic, and political environment in which he works. They embrace background studies highly relevant to an administrator in the local government service.

The intermediate examination comprises local and central

government (two papers), and a paper in essay-writing and précis; a paper in a selected discipline, such as economics, mathematics, statistics, or logic and scientific method; and lastly, a paper from a group of associated studies such as modern social and economic history, constitutional law or history, regional and physical geography, etc.

The administrative final examination consists of two parts: Part I comprises two papers on the principles and problems of public administration (both general and as applied to local government), and a paper on the social services. These are compulsory. Part II comprises the optional subjects, of which one must be chosen from social and political theory, political institutions, social statistics, the economics of public finance, administrative law, or the administration of nationalized industries. A second paper in this part may also be chosen from this group of subjects, but if the candidate prefers he can select a subject from another group more closely related to the work of his department, e.g. local government law or finance, education, public health, etc. The standard of the final examination is approximately that of a pass degree.

It is as yet too early to observe the results of this far-reaching new system of examinations. No one imagines that a written examination can reveal all the qualities required for a successful administrator, nor even serve always to indicate which officers most deserve promotion. Nevertheless, officers who are able to pass examinations of the calibre of the administrative intermediate and final undoubtedly possess as a general rule mental ability of a higher order than those who are not able to pass such tests. But this statement reveals only a small part of the value of the promotion examinations. Their real virtue lies in the assurance they give that those who enter for them—and this includes the more ambitious and energetic young officer<sup>1</sup>—will devote a substantial

<sup>1</sup> Unless he possesses or is working for professional qualifications in law, medicine, engineering, or accountancy, which will serve as an alternative to the administrative examinations for promotion purposes. The same applies to recognized technical qualifications. But one may hope that even such professional or technical officers will also pass the administrative examinations as evidence of their administrative ability.



part of his leisure during the early years of his career to reading, discussion, lectures, essay writing and other methods of study which will develop his mind, enlarge his knowledge, and broaden his outlook. It is on their ability to stimulate the further education and training of young officers that the tests devised by the Local Government Examinations Board must be judged.

### HIGH SALARIES FOR MUNICIPAL OFFICERS

Even if local authorities were to offer the highest appointments to men of distinguished administrative ability in other walks of life, it would not be easy to attract successful men from outside occupations to even the highest appointments in the municipal service unless salaries of substantial magnitude were offered. It is obvious, of course, that remuneration for public work can seldom, if ever, approach the highest earnings for similar work in private life. Nor is it necessary even on economic grounds that it should do so, since the total advantages of public employment, in terms of prestige, security, superannuation, leisure, interest, social purpose and satisfaction often outweigh the relative advantages of a higher income in terms of money from private enterprise.<sup>1</sup> Nevertheless, the remuneration of leading municipal officers is a subject of great importance at the present time. The Labour movement, in particular, will have to make up its mind in the near future concerning the extent to which public officers doing work requiring exceptional capacity and special training are to be rewarded with correspondingly high incomes.

In a closed society from which no escape were possible, and in which every business were owned and managed by the community, it might well be possible that the services of the most capable individuals could be obtained for the most difficult work, regardless of whether larger salary scales were offered to them or not: the mere satisfaction of doing important work might be relied upon to prove sufficiently potent both as an incentive and as a selective agency. But we cannot assume the

<sup>1</sup> W. A. Robson: *The Relation of Wealth to Welfare*, chap. iv.



existence of such a society with any degree of reason. We cannot at present foresee a time when public authorities will not have to compete with private enterprise for the services of men and women, nor contemplate a Socialist state from which it will be impossible to emigrate. One of the most remarkable features of the Soviet economic system is the way in which the directing technical experts and managers in socialised industrial undertakings and local government organs are receiving considerably larger incomes than the mass of routine workers, though this is in direct violation of Communist principles.<sup>1</sup> The competition between private and public enterprise is specially acute in municipal affairs, because many branches of local government administration, such as housing, financial control, water supply, civil engineering and transport services, require precisely the sort of organizing ability and managerial talent which possesses a high economic value in private enterprise. That being so, it is necessary to face the question whether we are prepared to reward persons doing work of unequal economic value with incomes of differing size.

This question is being raised in a more or less acute form in local government circles wherever a reactionary majority on a local council is endeavouring, as the main principle of their policy, to keep down the rates at all costs. It also frequently arises where Labour representation on the local authority has attained considerable proportions.<sup>2</sup> In the latter case the controversy sometimes takes the form of a protest against a high salary being offered to the Medical Officer of Health when the office falls vacant. At other times it takes the form of opposition to an increase in the salaries of the head officials, such as the Town Clerk or the Surveyor; or a resolution that no salaries above a certain amount shall be paid to municipal officers "while poverty and unemployment are so prevalent and wages so low in the district." Underlying the particular example

<sup>1</sup> Cf. "The City Government of Moscow," by W. A. Robson in *Moscow in the Making* by E. D. Simon and others; pp. 57-8. Maurice Dobb: *Russian Economic Development since the Revolution*.

<sup>2</sup> See R.C.L.G., Final Report, pp. 147-9.

there is often the feeling that it is wrong, or in some way opposed to Labour principles, to support or acquiesce in the payment out of public money of £2,000 or £3,000 a year to a chief officer while engineers are receiving £10 a week, or when (in the inter-war period) thousand of miners and shipbuilders or cotton spinners were out of work.

The vital question to be considered is not, however, whether Mr. Brown or Dr. Smith is receiving more than we should like him to have, or more than he deserves from a moral point of view, having regard to our own incomes or someone else's needs. The real question is whether it is necessary to pay that salary in present circumstances in order to obtain the best man for the job. The efficiency of the municipal service should be the sole criterion in fixing the salaries of the leading officials. If the best doctors require £2-3,000 a year as an inducement to take up full-time public health work, then assuming, as I do, that we need first-class men for the local medical service, we must be prepared to pay that amount. If the best architects will not go into public employment unless they are offered £5,000 a year by the great city councils, the Housing Committee must pay £5,000 a year, and pay it cheerfully. The crucial question is: Do we want the best doctors, engineers, surveyors, lawyers, transport managers, town planners, housing experts, architects, financial organizers and administrators inside the municipal service, or outside? I believe emphatically that we want them inside, and that there is work for them there worthy of their mettle. Accordingly we must be prepared to pay whatever amount is necessary to secure their services, though that will not by any means always be as much as they could earn in private enterprise.

The easiest way to ruin the prospects of a vast municipal development and an extended provision of social services is to man the local authorities with second-rate ability and to allow the best men to go into private enterprise. The quickest method of discrediting the idea of municipal trading and collective ownership is to permit the municipal services to be



run less efficiently, less aggressively, less economically, less imaginatively, less flexibly, and with less initiative than similar undertakings in private hands. There is no magic in municipal ownership. Whether a tramway is well run depends largely on the quality of the management, not merely on whether it is owned by a joint-stock company or a borough council. Municipal enterprise is administration; private profit-making industry is no less administration. The objects in view are for the most part widely different; the means are to a large extent similar.

Municipal enterprise has got to win on its merits, if it is to establish itself on a permanent basis, and not on *a priori* arguments. For that reason the local authorities must have the best men for the job. For that reason local councillors must bear in mind that the maxim, so widely accepted both by trade unionists and enlightened employers, that high wages are cheap wages, can be applied to the four-figure-income men no less than to the weekly wage-earner.

### PART-TIME OFFICERS

A word may be said in conclusion concerning two or three ancillary points. In the first place, the time has come when a determined effort should be made to eliminate the part-time officer who also works for private gain or a private employer. Medical officers are by no means the only municipal officers who divide their time between private employment and the public service. Where a local authority is too small or too poor to be able to employ full-time officers by itself, it should arrange to share full-time officers with one or more neighbouring authorities. The evil to be eliminated is not part-time employment by one particular authority, but the conflict of interest which almost inevitably arises when a man is being employed part of the time on municipal work and part of the time on private work for gain.

### THE EMPLOYMENT OF WOMEN

Another matter to which reference may be made is the



employment of women in the municipal service. Women are employed extensively by local authorities as teachers, assistant medical officers and sanitary inspectors, housing managers, nurses and health visitors, attendants and domestic workers in various institutions, and as clerks and stenographers. The rule which prevailed prior to the outbreak of war in 1939 in most areas was that no married women were engaged for the professional, technical and clerical staffs, and that single women had to resign on marriage. An exception was sometimes made where the husband was incapacitated or unable to maintain his wife.

This policy caused acute discontent among a considerable mass of educated women workers. The women teachers and doctors had for long vigorously demanded a removal of the bar on marriage, and had without success sought redress for what they felt to be an intolerable injustice both in the Courts and in Parliament. The various actions at law by which women teachers asked the Courts to declare that a resolution by a local education authority to dismiss women teachers on marriage is illegal and void were all unsuccessful and resulted in the local authority being upheld in its attitude.<sup>1</sup>

The war of 1939-45 produced a profound change in both the attitude and the practice of local authorities towards the employment of women. They were admitted to many positions from which they had formerly been excluded; and their economic rights and merits were more fully recognised. One has still to hear of a woman being appointed a chief officer; but the deputy town clerk of St. Albans is a woman, and women are employed in every department of the local government service, whether in the administrative, technical, professional or clerical classes.

The most notable aspect of this change is, however, in regard to the employment of married women. Under the impact of war and the resulting shortage of manpower, local authorities were glad to re-employ married women who had formerly been

<sup>1</sup> *Prince v. Rhondda U.D.C.* (1923) ■ Ch. 372; *Fennell v. East Ham Corporation* (1926) Ch. 641; *Short v. Poole Corporation* (1926) Ch. 66.

in their service until they resigned on marriage; they engaged married women who had not previously worked in local government; and they made no attempt to dismiss single women officers when they married. In short, the discrimination against married women was tacitly dropped.

This change has turned out to be much more than a passing phase due to a temporary difficulty. Local authorities to-day in general accept the idea of married women officers both in principle and practice; and, what is no less remarkable, so do the men and unmarried women in the service. There is no explicit declaration to this effect at present contained in the National Whitley Council's Charter; but a clause providing for maternity leave implies the retention of married women in the local government service.

The question of teachers has been specially dealt with by the Education Act, 1944. This enacts that no woman shall be disqualified for employment as a teacher in any county school or voluntary school or be dismissed from such employment by reason only of marriage. Thus ends the grotesque situation in which the entire mass of children under instruction in the municipal schools (not to mention the other types of schools) were educated by spinsters who were compelled to remain unmarried if they wished to continue teaching.

My own view has always been that the municipal service in all its branches ought definitely to be open to women, whether married or single, provided that it is to the interest of the local authority from the standpoint of good administration to employ women instead of men. The public interest, looked at from the point of view of the particular service administered, ought here, as always, to be the sole criterion. It is an economic fallacy to suppose that a married woman in gainful occupation necessarily displaces a single woman. A married woman who is herself employed can in turn afford to employ a domestic servant to do the housework which she might otherwise have to do herself. It is a biological mistake to force the more intelligent women to make a clear-cut choice between marriage



on the one hand and an independent working career on the other. It is a misconception of the purposes of local government to use municipal employment as a means of differentiating between the sexes and of promoting "home-building" among the women regardless of their own wishes. It is misplaced benevolence towards the husband to permit his physical or financial condition to extend the duration of his wife's appointment. It is a complete misunderstanding of the true character of public ownership and collective administration to regard public employment under the local authority as a charitable benefit to be conferred on single women or poor and necessitous wives.

The only logical and fair policy is to treat women in this respect in the same manner as men. If their services for any particular post are as good as, or better or lower in cost than, those of men they ought to be employed just so far as it is advantageous to do so.<sup>1</sup> It is greatly to be regretted that the Married Women (Employment) Bill, which prohibits local authorities from refusing employment to women, or dismissing them from employment on the sole ground of marriage, was defeated in the House of Commons on its Second Reading by 84 votes to 63.

As regards single women, no obstacles at all should be put in their way on *a priori* grounds. They should be allowed to compete on equal terms with men so far as the employing authority is concerned, and to get as far as their capacities will take them.

As regards married women, the choice between continuing in employment or of leaving it should obviously be left to the wife herself to decide. If marriage interferes with a woman's work; if she becomes less interested in her job, or unpunctual or lazy or less capable, then the local authority must consider its own interests, just as it would in the case of any other officer, and if necessary dismiss her.

<sup>1</sup> See on the whole subject the Report of the Royal Commission on Equal Pay. H.M.S.O. 1946.



The position of married women without children can be assimilated without difficulty to that of men. The position of women with children requires special consideration. It is quite unrealistic to ignore the dual functions of woman. Like man she is capable of doing all kinds of clerical, administrative and professional work; but unlike man she also produces children. The failure of our society to appreciate the elementary fact that woman is a double purpose creature has led to a widespread conflict between the desire to work and the desire for children which is probably a fundamental cause of the population crisis which Britain, in common with all Western countries, is now facing.

The granting of short-term maternity leave touches only one aspect of the problem. It requires to be supplemented by two other types of arrangements designed to meet the needs of married women with young children. First, a woman who wishes to devote herself wholly to the care of her child during the first year or two of its life should be permitted to withdraw temporarily from the service with the knowledge that she will be reinstated later if she remains competent. Second, opportunities should be provided for married women with young children to engage in part-time work in local government administration, wherever it is practicable to make such arrangements. The notion of regular part-time work in the public service is desirable both for making the fullest use of our manpower resources and also for removing one of the present obstacles to the higher birth-rate which we need. Such occupations as teaching, sanitary inspection, health visiting, housing management and social welfare offer particularly promising fields for part-time work in the local government service.<sup>1</sup>

So far as the municipal service is concerned, the employment of women ought to be particularly encouraged, because so many branches of municipal administration are directly related to the home and to the individual members of the family, and

<sup>1</sup> For a discussion of the whole subject see W. A. Robson (Ed.): *Population and the People*; A. Myrdal: *The Nation and the Family*.

the greater knowledge and experience of domestic life possessed by women can be turned to account in all sorts of useful ways.

There is, of course, nothing inconsistent between my advocacy of part-time employment for married women officers with young children, in order to enable them to fulfil their maternal duties, and the proposal I have previously made to abolish part-time appointments of officers who need full-time earnings, and who, in consequence, find it necessary to engage in private employment or practice, which may be in conflict with the public interest.

### OPPORTUNITIES FOR FOREIGN TRAVEL

The efficiency and successful development of municipal administration depends on a number of related factors. The quality of the leading officers in the service is of paramount importance. But I do not agree with the view sometimes expressed that if we concentrate on obtaining really good men at the top of the ladder, the other rungs will look after themselves—or be looked after by the top rungs. Local government differs largely in this respect from private business, and even an energetic and capable leading official cannot easily dismiss incompetent or lazy subordinates with impunity. There are all sorts of influences, political and otherwise, which prevent high-handed action of this sort, even when it is done from the most public-spirited motives. In any case, autocratic hiring and firing at pleasure is highly undesirable, and should if possible be avoided in the public service. But as I have observed, it is not even practical in many places, and I have myself known instances where an able chief official has been seriously hindered by a poor subordinate staff. The Local Government Service must be good in quality throughout, and the problem of improving it must be viewed as a whole.

The last matter on which I wish to touch is the desirability of giving municipal officers in the higher ranks of the service opportunities for foreign travel.

There are few fields of public affairs in which the observation



of foreign methods and achievements is more likely to prove stimulating and helpful than in the sphere of local government. A great many of the results of municipal administration, both good and bad, are visible to the naked eye on even a casual visit to a strange town. The general lay-out of the city, the condition of the highways, the public buildings and pleasure grounds, the museums and picture galleries, the libraries and school buildings, the tramway and omnibus services, the power houses and sanitation—these and many other factors can be appreciated even without linguistic attainments. To the visitor from England who can command a foreign tongue, or converse with those who speak his own—and the latter outnumber the former to a deplorable extent—a study of foreign municipal activities will of course yield far more detailed and scientific results.

It is difficult to over-emphasize the value which might be derived by local authorities from the systematic provision of travelling facilities for some of their leading officials. If one or two of the rising men in each department were offered a couple of months' special leave every third year on full pay, on condition they went abroad to study foreign conditions, the keener spirits would probably be prepared to find the travelling expenses out of their own pockets, if it were impractical to provide an allowance out of public funds for the purpose.

If the leading officers were given opportunities of this kind, and the elected councillors themselves persuaded to follow suit, an almost unimaginable improvement in certain departments of our civic affairs might be effected as a result. Our antiquated methods of refuse collection, our dangerously unhygienic methods of handling certain kinds of food, the deplorable architecture of our blocks of municipal flats, these and other backward services might be replaced by more enlightened methods of administration if the responsible municipal officers were able to realize how far we lag behind the best foreign practice in these respects. If a few of the more imaginative officers in the service



of the great industrial cities could be brought into touch with recent educational achievements in Denmark and Vienna, our system of education might be infused with a fertile stream of new ideals. If they were brought face to face with the spacious beauty and architectural splendour, the clear fresh atmosphere and clean shining buildings of some of the finer cities of the Continent, the ugliness and squalor and congestion of our smoke-laden towns in the Midlands might yield to something at once finer and more inspiring as a habitat for men and women. If those who are responsible for the conduct of our municipal affairs could see the dignity and beauty of a civic marriage ceremony in the Hôtel de Ville at Bruges or Brussels, they might return home aflame with the desire to imbue our municipal institutions with some of the majesty, the colour and the conviction which they now lack only because we ourselves lack the inspiration to endow them with these high qualities.

PART IV  
THE DISTRICT AUDITOR

A handwritten signature or set of initials, possibly reading 'J. M. S.', written in dark ink. The signature is positioned below the title and is partially crossed out by a diagonal line.

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## PART IV

# THE DISTRICT AUDITOR

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### A STRUGGLE FOR POWER

I propose in this chapter to discuss certain leading questions relating to the audit of the accounts of local authorities. The subject may sound somewhat dry and pedestrian, a matter of mere technical routine to those who are unacquainted with the remarkable situation which now exists. Behind the deceptive appearance of dull words and technical terms, however, there lies a struggle for power which is neither dry nor pedestrian. To those who are not initiated in the complexities and mysteries of this peculiar corner of our governmental system, the disarming official title of District Auditor seems to suggest a benevolent elderly gentleman bicycling quietly round old-world villages, peering through horn-rimmed spectacles at neatly kept ledgers, poring over petty cash books, intent only on improving methods of book-keeping which were already wellnigh immaculate.

A glance at the realities of the situation results in a rude awakening from these pleasant illusions. Beneath the guise of what is called auditing, a struggle for the substance of financial control has been proceeding apace for the last three or four decades. A state of affairs has now been reached when it may be said without exaggeration that the District Audit system constitutes not only a serious menace to the freedom of the local electorate and to the authority of the democratically elected local council, but also a danger to the fundamental conception of ministerial responsibility on which our method of Parliamentary government is supposed to depend.

It will perhaps be as well to start with a brief historical outline.

## THE HISTORY OF THE AUDIT

Before the end of the eighteenth century there was no one whose specific duty it was to check the accounts of local authorities. The Elizabethan Poor Law required the churchwardens and overseers to "yield up to two justices a true and perfect account of all sums of money received",<sup>1</sup> and this arrangement continued more or less unchanged until the passing of Gilbert's Act in 1782. Under this statute "visitors" were appointed by the local justices from among persons nominated by the guardians to "settle and adjust the accounts between the guardians and the Treasurer, if any question shall arise respecting the same". The visitors were exhorted by the Act to prevent unnecessary expenses and burdens falling on the parishes.

This inadequate system persisted until 1810, when the justices were given power, on having the accounts submitted to them by the overseers, to "disallow and strike out . . . all such charges and payments as they shall deem to be unfounded, and reduce such as they shall deem to be exorbitant".<sup>2</sup> Despite the apparent stringency of these provisions, the audit of the justices was in practice little more than a formality. Under Hobhouse's Act 1831, an audit by five ratepayers elected for the purpose by the parishioners was made compulsory in every parish containing more than 800 ratepayers, except in cities and towns. This measure was not, however, put into operation to any large extent outside the metropolis.

The modern system of district audit dates from 1834, when the Poor Law Amendment Act was passed. The three Commissioners of Poor Law who were appointed thereunder were given power to issue orders and regulations for the guidance and control of the guardians, vestries and parish officers concerning (among other things), "the keeping, examining, and auditing and allowing of accounts".<sup>3</sup> The Commissioners could

<sup>1</sup> 43 Eliz., chap. 2.

<sup>2</sup> 50 Geo. III, chap. 49.

<sup>3</sup> 4 & 5 Will. IV, chap. 76.

not themselves appoint paid officers for these purposes, but they could direct the overseers or guardians to do so. And they could dismiss such officers even against the wishes of the guardians.<sup>1</sup> The thin end of the wedge of central control was firmly in place.

During the next decade the system grew despite the obstacles placed in the way of efficient administration by local prejudice. By 1844 the legislature felt itself strong enough to pass the Poor Law Amendment Act under which the District Auditors were appointed for the first time.

The Poor Law Act of 1844 provided (by Section 32) that the Chairman and Vice-Chairman of each Board of Guardians should elect a person to be the Auditor of the District. The Poor Law Commissioners in London were empowered to combine Parishes and Unions for audit purposes. The Auditors were "to examine, audit, allow or disallow of accounts, and of items therein, relating to monies assessed for and applicable to the Relief of the Poor . . . and to certify monies due and deficiencies or loss incurred by any person accounting or accountable". In every district where an auditor was appointed, the powers of the justices to examine the accounts was to cease.

In 1855, the Metropolis Management Act set up District Boards of Works in the London parishes, and provided that Auditors were to be elected, by ballot, from persons already acting ■ Auditors for the Parishes. The Secretary of State was to appoint an Auditor for the Metropolitan Board of Works.

### THE RISE OF THE DISTRICT AUDITOR

Twenty years later, the Public Health Act 1875 applied the system of District Audit to all the rural and urban sanitary authorities (except borough councils) established by the Act. In 1888, the Local Government Act brought the newly created county councils within the system, and six years later the Local Government Act of 1894 extended the District Auditor's

<sup>1</sup> *Ib.*, Sect. 46; *R. v. Poor Law Commissioners*, 20 L.J. M.C. 236.



jurisdiction to the urban and rural district councils, the parish councils and the parish meetings. The London Government Act, 1899, brought the metropolitan borough councils under the district auditors. The method of election had, however, been abolished in 1868<sup>1</sup> as regards Poor Law Auditors; and the District Auditors Act of 1879 empowered the Local Government Board to appoint and dismiss the District Auditors. By that statute the Board (now superseded by the Minister of Health) might "from time to time by order make, and when made revoke and vary, such regulations as to the Board seem necessary or proper respecting the audit of such accounts".

The borough and county borough councils were never brought within this rapidly extending jurisdiction of the District Auditor. So far as their general expenditure is concerned the Municipal Corporations Act 1882 perpetuated the so-called system of elective audit, by which the borough accounts are audited by three Borough Auditors, two of whom are elected by the electors, and the other appointed by the Mayor. The elective auditors must be qualified to be councillors, but must not in fact be members of the council, nor be officers of the council. The Mayor's auditor, on the contrary, must be a member of the council. The accounts of borough councils may, however, be audited by the District Auditor if the council so desire, and this is actually done by some of the smaller corporations. Apart from this, borough and county borough councils are compelled by statute to submit the accounts of much of their grant-aided expenditure for audit by the District Auditor. This applies, for example, to expenditure on education, public assistance and housing. In addition, the rating, road fund, licensing and probation officers' accounts of borough and county borough councils are subject to District Audit.

The Local Government Act, 1933, which consolidated and amended the law, enables a borough or county borough council to appoint, if they wish, professional auditors who must possess

<sup>1</sup> 31 & 32 Vic., chap. 122.

the recognized professional qualifications. This method has been extensively adopted by municipal corporations. It is obviously preferable to the antiquated and amateur system of elective audit; but it has serious disadvantages of its own.

I believe I am correct in saying that nowadays the Minister of Health endeavours to bring pressure on urban district councils, when applying for a charter of incorporation, to undertake, in the event of their petition being granted, to accept the District Audit system of audit. The Minister has, however, no legal powers of compulsion in this respect.

### THE RIGHT OF APPEAL

The Poor Law Amendment Act 1844 provided that an appeal would lie either to the Court of Queen's Bench on a writ of *certiorari*, or alternatively to the Commissioners of Poor Law in London, who were to "enquire into and decide upon the lawfulness of the reasons stated by the Auditor for the allowance, disallowance or surcharge" and to issue such order as they might deem requisite. The Poor Law Amendment Act 1848 empowered the Poor Law Commissioners to decide an appeal on broader grounds, according to "the merits of the case"; and if they found that a disallowance or surcharge was lawfully made by the District Auditor but that the expense was incurred in circumstances which made it "fair and equitable" that the disallowance or surcharge should be remitted, they might remit the same on payment of costs.

This system of alternative appeal was continued by the Public Health Act 1875, and preserved until 1927. The person or persons surcharged could either challenge the decision of the Auditor in the High Court, where the surcharge could be quashed on legal grounds, or go to the Minister of Health, who might quash the Auditor's action on social grounds. The Minister might either (1) quash the surcharge, (2) uphold the surcharge, (3) uphold and remit. It was decided, however, in the case of *The King v. Minister of Health, ex parte Dore* (1927), 1 K.B., p. 765, that where an appeal to the King's Bench Division



has been made, the alternative right of appeal to the Minister is lost; and if the Court upholds the decision of the District Auditor the Minister has no power to remit the surcharge.

The Audit (Local Authorities) Act 1927,<sup>1</sup> which was passed in the face of the most strenuous opposition, enacted that persons surcharged with an amount exceeding £500 shall be disqualified from membership of any local authority for a period of 5 years, under penalty of a fine. The statute also altered the system of appeal. Where the disallowance or surcharge exceeds £500, an appeal lies to the High Court only. In any other case, an aggrieved person may appeal either to the Court or to the Minister. A person surcharged may, whether or not he appeals in other respects, apply to the Tribunal (whether the High Court or the Minister) to which he might have appealed or does in fact appeal, for a declaration that in relation to the subject-matter of the surcharge "he acted reasonably or in the belief that his action was authorized by law", and the Court or Minister may at their discretion make such a declaration, which then relieves the person concerned of disqualification from holding office. The Court or Minister may, furthermore, relieve him wholly or partly from personal liability in respect of the surcharge, if they consider he "ought fairly to be excused".

Another statute which requires mention is the Local Authorities (Expenses) Act 1887,<sup>2</sup> which provides that expenditure paid by a local authority is not to be disallowed by the District Auditor if it has been sanctioned by the Minister of Housing and Local Government. This measure enables expenditure to be sanctioned though not legalized, and was intended to reduce the number of surcharges. The Local Government Board (in their seventeenth Annual Report) observed that "power of sanction is intended to be used in those cases where the expenditure is incurred *bona fide* but in ignorance of the strict letter of the law, or in-

<sup>1</sup> The provisions of this statute are now embodied in the Local Government Act 1933, Sections 229-30.

<sup>2</sup> Now replaced by Section 228 of the Local Government Act, 1933.



advertently without the observance of the requisite formalities, or under such circumstances as make it fair and equitable that the expenditure should not be disallowed. We do not regard the Act as intended to supply the want of legislative authority for particular classes of expenditure and as justifying us in giving prospective sanction to recurring expense."

The Local Government Act 1933 contains, in Part X, elaborate provisions regarding the procedure, etc., to be followed at the District Audit, but these are not of fundamental importance. The vital words relating to the powers of the District Auditor are to be found in Section 228, which reads as follows:—

It shall be the duty of the District Auditor at every audit held by him—

- (a) to disallow every item of account which is contrary to law;
- (b) to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;
- (c) to surcharge any sum which has not been duly brought into account upon the person by whose that sum ought to have been brought into account;
- (d) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
- (e) to certify the amount due from any person upon whom he has made a surcharge;
- (f) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made.

It is obvious that under this section the Auditor has a duty to disallow and surcharge payments on objects *ultra vires* the local authority purporting to make them—such, for example, as expenditure on a shop or other unauthorized purpose. It is obvious, also, that the District Auditor has always had a duty to enforce the repayment of any deficiency or loss arising from negligence, corruption or misconduct on the part of councillors

or officials. The essential question is, however, whether the Auditor can disallow and surcharge expenditure on objects lawful in class or character, but excessive in amount compared with what the Auditor regards as reasonable or necessary.

### THE ATTITUDE OF THE COURTS

In order to understand the existing state of the law in this respect reference must be made to one or two leading cases on the subject.<sup>1</sup> In *R. v. Haslehurst* (1887, 51 Justice of the Peace, p. 645) the District Auditor had regarded a commission of 1½ per cent. for raising a loan as excessive, and made a surcharge. This was quashed on appeal. In *R. v. Calvert* (1898, 2 Irish Reports, p. 25), O'Brien, J., said, in reference to the powers of the District Auditor in Ireland, which scarcely differ from those in England, "I certainly am not inclined in the least degree to derogate from the authority of the Auditor . . . or to narrow his authority so that he could not under this head of 'unfounded' have the power to deal with all payments of an unnecessary or extravagant kind". Approval of this view was expressed five years later in another Irish case concerning the amount of daily subsistence allowance payable to members of the council and officials when absent from home on municipal business; in the course of his judgment Palles, C.B., said "Neither am I inclined to derogate from or to narrow the authority of the Auditor, but I am of opinion that . . . he has complete authority over every illegal payment" (*R. v. Newell*, 1903, 2 IR., p. 342). The learned Baron then went on to observe that the Auditor had power to sever the exorbitant parts of a payment from the reasonable parts, and to surcharge the former. In the present instance, he continued, "It is not pretended that any statute has fixed the actual rate of the daily subsistence allowance, therefore, the only amount legally allowable is a reasonable sum. . . . What is a reasonable sum is a question of

<sup>1</sup> For a complete treatise on the law reference should be made to *The Law Relating to Local Government Audit* by William A. Robson (published by Sweet & Maxwell, 1930).



fact which the Auditor must himself determine.” (See also *R. v. Drury*, 1894, 2 I.R., p. 489.)

During the next decade it is possible to trace a disposition on the part of the High Court to resist the inroads made on the discretionary freedom of local councillors by the District Auditor, and a growing determination to curtail his power. “No doubt” if a payment is excessive, a surcharge can be made for the excess, said Lord Chief Justice O’Brien in *R. v. Browne* ] (1907, 2 IR., p. 505), but, he continued, “a body such as the applicants are responsible only for *crassa negligentia*. Certainly the standard of care to be demanded of them is not higher than that required of Company Directors. The degree of negligence which subjects such a body to responsibility is *crassa negligentia* . . . mere imprudence is not enough, want of judgment is not enough, grave error of judgment is not enough.”

This was going a good long way in favour of the elected councillor. The same tendency was displayed in the following year when the Court of Appeal in England expressed their view of the position of the District Auditor in no uncertain terms in the case of *R. v. Roberts* (1908, 1 K.B., p. 419). The facts of that case were that the Westminster City Council had accepted a tender other than the lowest one submitted. The tender accepted was indeed the highest one received and the auditor had surcharged the difference between that and the lowest one submitted. “The statute,” observed Lord Justice Cozens-Hardy, then Master of the Rolls, “has enabled an Auditor, who has in my opinion no power to administer an oath or to subpoena witnesses, and who is not a judicial officer in the ordinary sense, to decide that a member of the local authority has been guilty of negligence or misconduct and to assess the amount of loss incurred thereby.” But, added the learned Lord Justice, “happily, this extraordinary jurisdiction is subject to review in the King’s Bench Division, where the merits will be dealt with upon legal evidence”. Lord Justice Fletcher Moulton observed in the same case, “The true mode of securing the good management of municipal affairs is to induce the



best men to take part in them and to give their services to the community in this way. The task is at best unremunerative and often thankless; but if those who accept it are to be liable to have their conduct pronounced upon and their character and property injured, by decisions, not of any Court of Law of the country, to which they are of course amenable, but of a special tribunal consisting of an official chosen by a government department without any powers or qualifications for holding a judicial enquiry, and discharging those functions without any of those securities which protect an individual before our Courts, and if the jurisdiction of that individual is not to be limited to requiring an account of municipal money for which the accused has made himself responsible, but extends to calling him to account for the reasons and motives of all his actions, no self-respecting man will take part in municipal affairs." The Court in the result quashed the Auditor's surcharge.

#### THE POPLAR WAGE CASE

All these attempts to stem the tide of the Auditor's power of autocratic control over the activities of the elected council were, however, doomed to be swept away at a single stroke by the House of Lords.

The leading authority on the power of the District Auditor is now the decision of the House of Lords in the Poplar Wage Case (*Roberts v. Hopwood* (1924), 2 K.B., p. 514 and p. 695; (1925), A.C., p. 578). The facts of the case were as follows: From May 1st, 1920, the Poplar Borough Council paid a minimum wage to their municipal employees of £4 per week. The District Auditor raised no objection when auditing the accounts for the year ending March 31st, 1921, on the ground (as he afterwards explained) that the cost of living had risen. In auditing the accounts in January 1923, however, the District Auditor found that the minimum wage of £4 was still being paid, although the cost of living had fallen. The £4 minimum was admittedly in excess of the wages paid for similar work in London under trade agreements between employers and workers.

But the council did not take the view that wages paid should be exclusively related to the cost of living. They had, they explained in an affidavit, from time to time carefully considered the question of the wages, and were of the opinion, as a matter of policy, "that a public authority should be a model employer and that a minimum rate of £4 is the least wage which ought to be paid to an adult, having regard to the efficiency of the workpeople, the duty of a public authority both to the rate-payers and to its employees, the purchasing power of the wages and other considerations which are relevant to their decisions as to wages". Under the Metropolis Management Act 1855 the borough council were expressly given power to pay "such salaries and wages as [they] may think fit".

The Auditor took the view that the £4 minimum was excessive and unreasonable. He accordingly disallowed the sum of £5,000 in the accounts and surcharged it upon the Councillors, who appealed to the High Court. The King's Bench Divisional Court upheld the Auditor's action and discharged the rules obtained by the Councillors. The Court of Appeal (Banks, L.J., dissenting) reversed the decision of the Divisional Court and decided against the Auditor. Lord Justice Scrutton observed: "The question is not whether I should have sanctioned these wages—I probably should not—or whether the Auditor or the Whitley Council would have sanctioned these wages; it is for the Poplar Borough Council to fix these wages, which are not to be interfered with unless they are so excessive as to pass the reasonable limits of discretion in a representative body." Lord Atkin (then ■ Lord Justice) went farther and asked whether it was open to the Auditor to disallow the payment of 4 charwomen out of 44 if he thought 40 sufficient, or 10 dustmen out of 144 if his experience led him to believe his work could be done by 134—clearly implying that the Auditor had no such authority. In conclusion he quoted with approval, as applicable to the circumstances, the well-known words of Lord Russell, who had said, in a celebrated case,<sup>1</sup> "A by-law is

<sup>1</sup> *Kruse v. Johnson* (1898), 2 Q.B., p. 91.



not unreasonable merely because particular judges may think it goes farther than is prudent or necessary or convenient, or because it is not accompanied by a qualification or an exception which some judges think ought to be there. Surely it is not too much to say that in matters which directly and mainly concern the people of the country, who have the right to choose those whom they think best fitted to represent them in their local government bodies, such representatives may be trusted to understand their own requirements better than judges."

The House of Lords unanimously upheld the decision of the Auditor and reversed the Court of Appeal. Lords Buckmaster, Atkinson, Sumner, Wrenbury and Carson revealed the state of the law at length in their speeches, from which certain representative extracts may be quoted. Lord Atkinson said that the words of Section 247 (7) of the Public Health Act,<sup>1</sup> rationally construed, show that the Auditor necessarily has jurisdiction to enquire into the legality of every payment, and to disallow and surcharge payments of money on every item of account. He may disallow it if it be excessive, and therefore illegal, "contrary to law", or if the excess be severable from the remainder of the payment he may disallow or surcharge this excess, and allow the remainder of the payment.

Lord Sumner said in his speech that the council contended that they could pay in good faith what wages they please. "It is not said that they can pay, if they please, unreasonable wages, but that, for all purposes, what they please is what is reasonable. Their reason is substituted as the test of reasonableness for that of the Auditor or of the Courts of law." Passing later to the power of the District Auditor, the learned Law Lord observed "He has to restrain expenditure within proper limits. His mission is to find if there is any excess over what is reasonable. I do not find any words limiting his functions merely to the case of bad faith, or obliging him to leave the ratepayers unprotected from the effects on their pockets

<sup>1</sup> This enactment was substantially similar to Section 228 of the Local Government Act, 1933, as to which see page 377 *ante*.



of honest stupidity or unpractical idealism.” Lord Sumner went on to approve a dictum of Farwell, L.J., to the effect that the District Auditor could not claim to exercise control over questions of policy, but he could control administration. By questions of policy, he continued, “I understand . . . such matters as the necessity for a urinal and the choice of its position, provided no public or private nuisance is created. . . . The word, however, is policy, not politics, and I can find nothing empowering bodies, to which the Metropolis Management Act 1855 applies, which authorizes them to be guided by their personal opinions in political, economic or social questions in administering the funds which they derive from levying rates.”

### SOVEREIGNTY OF REASON

It can be seen from this brief survey of the statutes and case-law that the District Auditor has been placed in a position of great power in regard to the expenditure of local authorities. His function far exceeds the task of ensuring honest administration, and of preventing corruption or the improper application of public funds by elected councillors or officials. He has to disallow and surcharge any expenditure on objects which are *ultra vires* or of an unauthorized character. But more important than this is his duty to declare illegal such expenditure as he regards as unlawful on the ground that it is exorbitant or unreasonable in amount. In determining what is lawful or unlawful under this last head the District Auditor has to decide what is reasonable, and in deciding what is reasonable he must rely, in the last resort, on what he considers necessary or desirable.

The system as it at present stands results in the opinion of the District Auditor as to what is reasonable in regard to expenditure, overriding the views of the elected councillors. The District Auditor is made the arbiter of what is reasonable and therefore lawful, and the views of the council are subordinated to his authority. An appeal lies, it is true, to the High Court or in some cases to the Minister of Housing and

Local Government (who has superseded the Minister of Health). But this does little to restore the authority of the democratically elected councillor, for the effect of the law is only to make the Auditor's decision subject to review by judges of the High Court or a Minister of the Crown. In either event the wishes of the local electors and the considered views of the local authority may, according to the *Poplar* case, be regarded as irrelevant. Moreover, the trend of a series of later decisions regarding rates of wages in Bethnal Green, Woolwich and elsewhere suggests that the Court will be reluctant to interfere with the discretion of the District Auditor, whose "mission", to quote again the words of Lord Sumner, "is to find if there is any excess over what is reasonable". It is assumed that there is an objective or absolute standard of reasonableness, independent of the opinions of the persons concerned in discovering it.

The power which the law now places in the hands of the Auditors is so extensive that it may well be asked whether they are fitted by training or position to exercise it in a satisfactory manner; and in particular why their "reason" should be entitled to take precedence over the "reason" possessed by the councillors and the electorate.

The position of the District Auditors is most peculiar, and perhaps unique in the framework of the British Constitution. The Auditors were for long appointed by nomination of the President of the Local Government Board, and his successor the Minister of Health, without any specific requirements as to qualifications. During recent years, however, a qualifying examination has been held by the Civil Service Commissioners, and the appointment now goes by nomination *plus* qualifying examination.

#### A STUDY IN BUREAUCRACY

The relation between the Minister of Housing and Local Government and the District Auditor is, however, distinctly anomalous. The Minister has statutory power, as we have seen, to appoint the Auditors, to remove them, to regulate their work, to



promote them and to fix their salaries (which are presumably paid out of the fees charged to local authorities for audit services). But the Minister does not regard the Auditors as being ordinary members of his staff subject to the normal rules of departmental discipline. Mr. Neville Chamberlain, in his speech in the House of Commons on December 13th, 1927, on the Third Reading of the Audit (Local Authorities) Bill, said that it was unfair and mean for Members of Parliament to attack District Auditors who are endeavouring to carry out their duties, because they are not in a position to defend themselves.

"It has been said", continued Mr. Chamberlain, "that the Auditors are my Auditors. They are not my Auditors. They are entirely independent of me. I have never attempted to give a District Auditor instructions as to what he should do; I have never sought to influence a District Auditor in carrying out his duties. It would not have been any use if I had. As a matter of fact the action of the District Auditor has often been the cause of some embarrassment."

In making this remarkable statement the then Minister of Health appears to have overlooked certain vital considerations affecting the whole basis of responsible government. The immunity from criticism and attack normally enjoyed by civil servants is based on the fact that under the British Constitution the Minister in charge of a Department accepts full responsibility in Parliament and elsewhere for the acts of his subordinates. This fundamental principle was entirely disregarded by Mr. Neville Chamberlain in maintaining the propositions that: (1) it is unfair to criticize the Auditors personally, because they cannot defend themselves, (2) the Minister is not responsible for the Auditors. If Mr. Chamberlain's view of the position be accepted, the District Auditor is a bureaucrat of the worst type: that is, an official for whose actions no Minister is responsible to Parliament. If this is so, it is difficult to see how immunity from public criticism or censure can be claimed for the Auditor, and harder still to see why the Minister should retain complete control over his official career and advancement.



Such a position is in direct conflict with modern ideas of democracy.

Another ground on which I believe the present arrangement to be unsatisfactory, is that the District Auditors are officials who have not had any experience of local government from the point of view of practical administration. Their outlook appears to be excessively narrow and lacking in vision. The type of man who regards it as improper for a great local education authority like the London County Council to provide necessitous school children with fruit, cod-liver oil and malt extract under the Education (Provision of Meals) Act, does not possess the mental equipment likely to produce the most satisfactory method of audit.

"In everyday practice", wrote Bernard Shaw more than forty years ago, "it is not so much the judge as the official auditor who is to be feared by the municipalities. It is not at present at all difficult to find a barrister who is thoroughly disaffected to municipal trading. If such a one were appointed . . . to audit the accounts of a County Council, a London Borough Council or an Urban District Council, he might, on the very plausible ground of keeping it up to the mark commercially, insist on allowances for depreciation which, as the actual wear and tear is in practice made good out of revenue, and a reserve fund is maintained to replace scrapped machinery, might virtually load the enterprise with a second sinking fund, and enable the opponents of municipal trading to point to commercial companies which (having no sinking fund at all) could show more economical and businesslike figures."<sup>1</sup> This was written in 1904 but the argument still holds good that "if the auditor be empowered to dictate the financial management instead of simply to criticize it and to check the items, he might discredit the most beneficial public enterprises" by simply looking at them from a narrow-minded commercial standpoint.<sup>2</sup>

Municipal auditing, insisted Shaw, is a distinct branch not

<sup>1</sup> G. Bernard Shaw: *The Common Sense of Municipal Trading*, p. 82.

<sup>2</sup> G. Bernard Shaw: *The Common Sense of Municipal Trading*, p. 83.

only of accountancy but of law. It requires a technique and an outlook which takes full account of the essential purposes of local government.<sup>1</sup>

In the sphere of municipal trading, with which Shaw was specially concerned, this aim consists of the provision of public services at cost price. This cost price, he added prophetically, "to make the service really economical in the wide sense of good municipal statesmanship", may include higher wages than a commercial firm would pay. In the sphere of the other local government services similar non-commercial considerations apply, and these call for a degree of insight into and comprehension of social purpose which it is unreasonable to expect an auditor to possess.

For these reasons Bernard Shaw was opposed to the appointment of professional auditors for municipal accounts as strongly as he condemned allowing the district auditor to have a voice in financial policy. The absence of profits in a municipal undertaking, he observed, is an indication that it is properly conducted. In a commercial undertaking such an absence would be proof of incompetence. "An auditor therefore has to apply precisely opposite tests to municipal and commercial undertakings." If he is to certify that the accounts present a true and correct view of the transactions and trading results for the period under investigation, the auditor must estimate the total social utility of the enterprise during the year to the local community. "And this", added Shaw, "is a sort of accounting which neither the Institute of Chartered Accountants nor the Incorporated Society of Accountants and Auditors yet profess."<sup>2</sup> These views remain as true to-day as when they were written.

### THE REFORM OF MUNICIPAL AUDIT

There can be little doubt that an audit of the accounts of local authorities is both necessary and desirable. But the type of audit which is required is much wider in character than

<sup>1</sup> *Ib.*, p. 84-5.

<sup>2</sup> G. Bernard Shaw: *The Common Sense of Municipal Trading*, pp. 87-88.



that at present exercised. What is needed is not ■ mere checking of payments in order to ascertain their legality, but a thorough investigation of the financial methods and organization of the local authority, with a view to their efficiency. The District Auditor has at present no right to advise local authorities from this broader aspect, no right to report to the council on matters not involving illegal payments or negligence, and no power to compel improved methods of financial organization. The audit of the accounts of local authorities should be, above all, an efficiency audit, designed to show, by the light of comparative statistics, the cost in significant terms of the various services administered by the council. The main object should be to demonstrate, by means of these statistics, the relative efficiency of any particular area, in respect of those services, as compared with other areas. Little, if anything, is done on these lines at present, and the existing District Auditors do not appear adequately qualified to carry it out.

The most serious anomaly in the present system is the position occupied by the Municipal Corporations. Most borough councils, as I have pointed out, have their accounts audited either by professional auditors, who are inherently unsuited to the task, or by the method whereby two elective Auditors and a Mayor's Auditor are appointed for the work. Under this arrangement no provision is made for the payment of the Borough Auditors, nor for ensuring that they are competent for the task. The statute lays down no directions as to the method of procedure, except that the Auditors are "to audit" the accounts. Borough Auditors have no power to disallow illegal charges or to surcharge councillors or officials. And although they have a duty to ascertain whether any improper payments have been made, and also to investigate whether the payments represented by the vouchers are authorized or illegal, this is a duty of imperfect obligation, since there is no sanction available to secure repayment. (*Thomas v. Devonport Corporation* (1900), 1 Q.B., p. 16; *Attorney-General v. De Winton* (1906), 2 Ch., p. 106)



The position was only very slightly improved by the Public Health Act, 1875, which provided for the payment of the Borough Auditors for auditing the accounts of expenditure under that statute. There has been no other modification of the system.

In my opinion, the accounts of local authorities ought to be entrusted to Auditors appointed by the local authorities themselves. I do not mean that each local authority should be responsible for auditing its own expenditure, but that a staff of Auditors should be appointed and controlled by the whole mass of local authorities, acting through their representative associations. An Audit Commission should be appointed consisting of representatives of the County Councils Association, the Association of Municipal Corporations and the Urban and Rural District Councils Associations—these forming the majority—together with representatives of the Ministry of Housing and Local Government, the Treasury, the Auditor and Comptroller-General, and perhaps one or two unofficial experts in local government finance, statistics and law. The Commission should be responsible for appointing the Auditors, removing them and controlling their methods of work. This body might be called the Local Authorities Audit Commission, have a paid chairman, and headquarters in London. The Commission would inherit all the powers of the Minister of Housing and Local Government and of the District Auditors. The officials conducting the audit would be definitely and openly acting under the Commissioners' instructions.

The powers of disallowance and surcharge should not only be continued, but extended to apply to all the accounts of Municipal Corporations. The right of appeal now lying to the Minister of Housing and Local Government would in future be transferred to the Commission, and should be conferred in cases involving any amount. The alternative right of appeal to the Courts on legal grounds should be preserved.

Under this scheme the local authorities would acquire a measure both of freedom and of responsibility in regard to

the auditing of their accounts. We might hope to see as a result, not only a vast change in the whole conception of what is involved in a municipal audit but also a continuous improvement in methods of financial organization and technique among local authorities. The yearly or half-yearly audit might well become the critical testing time of the local authority's achievements in administrative efficiency. The Audit Commission's Headquarters in London might develop, under the guidance of the representatives of the local authorities and their colleagues, into a veritable mine of statistical information concerning the administrative capacities and relative efficiency of the twenty-five thousand local authorities who are now entrusted with the expenditure of approximately a ninth part of the whole national income.

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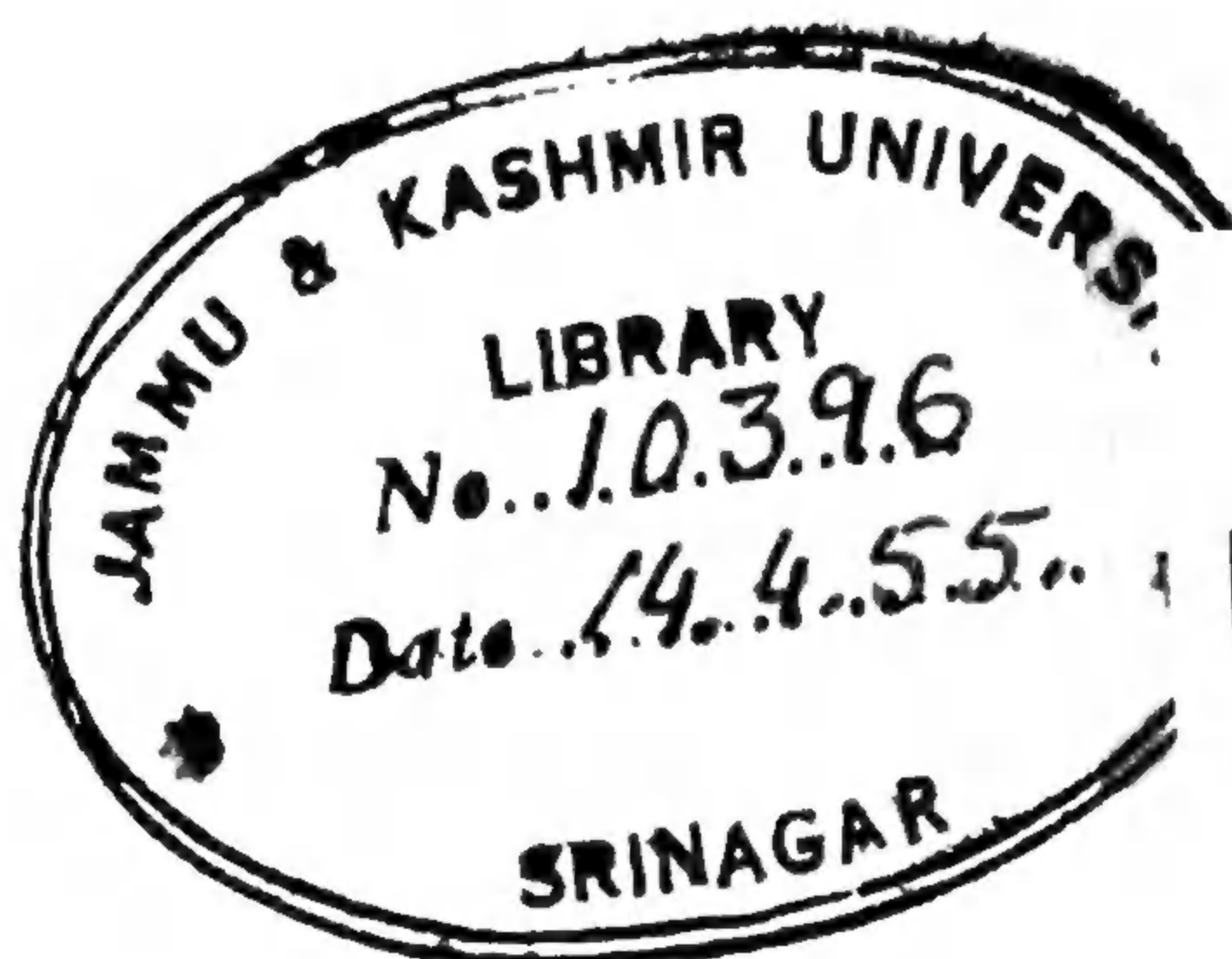
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